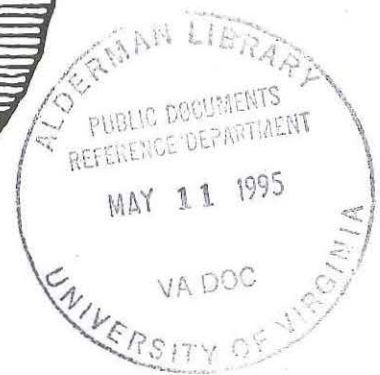


COD 5/R 26/11-16 c.2

# THE VIRGINIA REGISTER

OF REGULATIONS

VA  
DOC



VOLUME ELEVEN • ISSUE SIXTEEN

MAY 1, 1995

# 1995

Pages 2485 Through 2680

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# THE VIRGINIA REGISTER INFORMATION PAGE

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The *Virginia Register* is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative.

The *Virginia Register* has several functions. The full text of all regulations, both as proposed and as finally adopted or changed by amendment, is required by law to be published in *The Virginia Register of Regulations*.

In addition, the *Virginia Register* is a source of other information about state government, including all Emergency Regulations issued by the Governor, and Executive Orders, the Virginia Tax Bulletin issued periodically by the Department of Taxation, and notices of all public hearings and open meetings of state agencies.

## ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of proposed action; a basis, purpose, impact and summary statement; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulations.

Under the provisions of the Administrative Process Act, the Registrar has the right to publish a summary, rather than the full text, of a regulation which is considered to be too lengthy. In such case, the full text of the regulation will be available for public inspection at the office of the Registrar and at the office of the promulgating agency.

Following publication of the proposal in the *Virginia Register*, sixty days must elapse before the agency may take action on the proposal.

During this time, the Governor and the General Assembly will review the proposed regulations. The Governor will transmit his comments on the regulations to the Registrar and the agency and such comments will be published in the *Virginia Register*.

Upon receipt of the Governor's comment on a proposed regulation, the agency (i) may adopt the proposed regulation, if the Governor has no objection to the regulation; (ii) may modify and adopt the proposed regulation after considering and incorporating the Governor's suggestions; or (iii) may adopt the regulation without changes despite the Governor's recommendations for change.

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within twenty-one days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative committee, and the Governor.

When final action is taken, the promulgating agency must again publish the text of the regulation as adopted, highlighting and explaining any substantial changes in the final regulation. A thirty-day final adoption period will commence upon publication in the *Virginia Register*.

The Governor will review the final regulation during this time and if he objects, forward his objection to the Registrar and the agency. His objection will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation are substantial, he may suspend the regulatory process for thirty days and require the agency to solicit additional public comment on the substantial changes.

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has suspended the regulatory process.

Proposed action on regulations may be withdrawn by the promulgating agency at any time before the regulation becomes final.

## EMERGENCY REGULATIONS

If an agency determines that an emergency situation exists, it then requests the Governor to issue an emergency regulation. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited in time and cannot exceed a twelve-month duration. The emergency regulations will be published as quickly as possible in the *Virginia Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures (See "Adoption, Amendment, and Repeal of Regulations," above). If the agency does not choose to adopt the regulations, the emergency status ends when the prescribed time limit expires.

## STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 of Chapter 1.1:1 (§§ 9-6.14:6 through 9-6.14:9) of the Code of Virginia be examined carefully.

## CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **1:3 VA.R. 75-77 November 12, 1984** refers to Volume 1, Issue 3, pages 75 through 77 of the *Virginia Register* issued on November 12, 1984.

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*The Virginia Register of Regulations* is published pursuant to Article 7 of Chapter 1.1:1 (§ 9-6.14:2 et seq.) of the Code of Virginia. Individual copies are available for \$4 each from the Registrar of Regulations.

**Members of the Virginia Code Commission:** Joseph V. Gartlan, Jr., Chairman, W. Tayloe Murphy, Jr., Vice Chairman; Russell M. Carneal; Bernard S. Cohen; Frank S. Ferguson; L. Cleaves Manning; E. M. Miller, Jr.; Theodore V. Morrison, Jr.; William F. Parkerson, Jr.; Jackson E. Reasor, Jr.

**Staff of the Virginia Register:** Joan W. Smith, Registrar of Regulations; Jane D. Chaffin, Assistant Registrar of Regulations.

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By Noon Wednesday**

**Will Be Published On**

**Volume 11**

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April 26, 1995  
May 10, 1995  
May 24, 1995  
June 7, 1995

May 1, 1995  
May 15, 1995  
May 29, 1995  
June 12, 1995  
June 26, 1995

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July 19, 1995  
August 2, 1995  
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August 30, 1995

July 10, 1995  
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September 4, 1995  
September 18, 1995

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**October 1995**

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# NOTICES OF INTENDED REGULATORY ACTION

## Symbol Key †

† Indicates entries since last publication of the *Virginia Register*

## STATE AIR POLLUTION CONTROL BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider promulgating regulations entitled: **VR 120-50-01. Regulation for General Administration.** The purpose of the proposed action is to develop a regulation to govern general (not program-specific) administration for the entire regulatory programs of the State Air Pollution Control Board.

**Public meeting:** A public meeting will be held at the State Capitol, House Room 1, Richmond, Virginia, at 9 a.m. on Thursday, May 4, 1995, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

**Accessibility to persons with disabilities:** The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facility should contact Deborah Pegram at the Office of Regulatory Services, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240, or by telephone at (804) 762-4041 or TDD (804) 762-4021. Persons needing interpreter services for the deaf must notify Ms. Pegram no later than April 20, 1995.

**Ad Hoc Advisory Group:** The department is soliciting comments on the advisability of forming an ad hoc advisory group using a standard advisory committee, or consulting with groups or individuals registering interest in working with the department to assist in the drafting and formation of any proposal. Any comments relative to this issue must be submitted in accordance with the procedures described under the "Request for Comments" section above.

**Public hearing plans:** The department will hold at least one public hearing to provide opportunity for public comment on any regulation amendments drafted pursuant to this notice.

**Need:** Currently, general administration is addressed within the board's two major categories of regulations, with some of the administrative provisions in the stationary source regulations reiterated in the mobile source regulations. The regulatory language is thus unnecessarily repetitive. Furthermore, the repeated provisions are not consistent with each other, thus creating the potential for problems in legal and procedural interpretation. The anticipated promulgation of several more mobile source regulations in the near future will exacerbate the problem. To solve the problem, the board wishes to develop a regulation on general administration to serve its entire regulatory program. Matters addressed by this regulation will include but not be limited to:

1. Applicability, establishment, and enforcement of regulations (including variances thereto) and orders;

2. Administration of associated hearings and proceedings;
3. Approval of local ordinances;
4. Appeal of board decisions;
5. Right of entry upon public and private property;
6. Approval of items with conditions;<sup>1</sup>
7. Availability of procedural information and guidance;
8. Approval of certain items requiring specific considerations;<sup>2</sup> and
9. Availability of information to the public.

### Alternatives:

1. Devote one regulation specifically to general administration. This course of action would ensure legal and procedural consistency between the stationary source regulations and the mobile source regulations. It would furthermore eliminate the need to repeat language.
2. Take no action. The continuation of the current system will perpetuate the need to repeat language in both the stationary source and mobile source regulations. Because the repeated provisions are not consistent with each other, potential legal and procedural problems will continue to exist and will be exacerbated as new regulations are promulgated.

**Costs and benefits:** The department is soliciting comments on the costs and benefits of the alternatives stated above or other alternatives.

<sup>1</sup> Such items may include but are not limited to variances, control programs, and permits.

<sup>2</sup> Such items are the same as those listed in footnote 1. Specific considerations may include but are not limited to (i) the character and degree of injury to or interference with safety, health or the reasonable use of property which is caused or threatened to be caused; (ii) the social and economic value of the activity involved; (iii) the suitability of the activity to the area in which it is located; and (iv) the scientific and economic practicality of reducing or eliminating the discharge resulting from such activity.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m., Thursday, May 4, 1995, to the Manager, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Dr. Kathleen Sands, Policy Analyst, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4413.

VA.R. Doc. No. R95-359; Filed March 15, 1995, 11:05 a.m.

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# Notices of Intended Regulatory Action

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## BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Audiology and Speech-Language Pathology intends to consider amending regulations entitled: **VR 155-01-2:1. Regulations of the Board of Audiology and Speech-Language Pathology.** The purpose of the proposed action is to reduce fees in compliance with the law and the required functions of a board within the Department of Health Professions. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public comments may be submitted until May 3, 1995.

**Contact:** Lisa Russell Hahn, Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9111.

VA.R. Doc. No. R95-323; Filed March 6, 1995, 10 a.m.

## BOARD OF PHARMACY

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Pharmacy intends to consider amending regulations entitled: **VR 530-01-1. Regulations of the Board of Pharmacy.** The purpose of the proposed action is to address the following issues:

1. Relaxing criteria for approved CE to allow courses approved by some other approval method, but which relate to pharmacy, pharmacology, or other drug or pharmacy related topic (e.g. Category I CME's which relate to drug therapy),
2. Amending fax regulation to include schedule II-V consistent with new federal regulations—have received petition for rulemaking (current regulation is particularly burdensome to pharmacies serving nursing homes and home infusion pharmacies),
3. Reducing the 30-day notice to the board for pharmacies which wish to close to a 15-day notice to be consistent with the 1994 statute change reducing the time for notice to the public,
4. Better regulation of the use of automated dispensing machines which are being used in current practice, but probably not in compliance with current regulations and law,
5. Considering amendments to address on-line transmission of prescriptions by practitioners to pharmacy and from one pharmacy to another pharmacy for copies,
6. Better regulation of satellite pharmacies in hospitals by possibly requiring a separate pharmacist in charge,

7. Changing definitions of storage temperatures consistent with new USP definitions,

8. Adding a specific requirement for the biennial inventory to be signed, dated, and designation made as to opening or closing of business,

9. Considering regulations setting standards for compounding sterile products,

10. Minor "housekeeping" amendments to correct errors from previous revisions, remove or amend provisions which are obsolete or inconsistent with some other prevailing law, regulation, contract, or procedure, as follows:

- a. Replace the term "nursing homes," still in some paragraphs, with "LTCF" and review whether the "LTCF" should have replaced "nursing homes" in § 11.2(9)
- b. The number of destruction forms required for DEA is not consistent with federal requirements
- c. DEA no longer accepts drugs for destruction
- d. Change "employee" in § 12.1 D to "person" to cover college infirmaries and other situations other than industrial first aid rooms
- e. Remove the "examination" portion of the current combination fee for "application and examination" since candidates for examination will directly pay the examination contractor the amount specified in contract
- f. Make other nonsubstantive corrections or changes noted during process.

The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400, 54.1-3307, 54.1-3314.1, 54.1-3410 and 54.1-3434.

Public comments may be submitted until May 26, 1995.

**Contact:** Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4<sup>th</sup> Floor, Richmond, VA 23230, telephone (804) 662-9911.

VA.R. Doc. No. R95-322; Filed March 1, 1995, 10:57 a.m.

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## PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS

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### PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

Effective July 1, 1995, publication of notices of public comment periods in a newspaper of general circulation in the state capital is no longer required by the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). Chapter 717 of the 1995 Acts of Assembly eliminated the newspaper publication requirement from the Administrative Process Act. In *The Virginia Register of Regulations*, the Registrar of Regulations has developed this section entitled "Public Comment Periods - Proposed Regulations" to give notice of public comment periods and public hearings to be held on proposed regulations. The notice will be published once at the same time the proposed regulation is published in the Proposed Regulations section of the *Virginia Register*. The notice will continue to be carried in the Calendar of Events section of the *Virginia Register* until the public comment period and public hearing date have passed.

Notice is given in compliance with § 9-6.14:7.1 of the Code of Virginia that the following public hearings and public comment periods regarding proposed state agency regulations are set to afford the public an opportunity to express their views.

### BOARD OF MEDICINE

**June 7, 1995 - 1 p.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 2, Richmond, Virginia.

**July 1, 1995** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **VR 465-02-1. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology and Acupuncture.** The proposed amendments clarify prohibited sexual contact with patients; remove burdensome, outdated language on acupuncture; and eliminate the requirements for a state examination for chiropractic licensure.

Statutory Authority: §§ 54.1-2400 and 54.1-2900 et seq. of the Code of Virginia.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9925.

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# PROPOSED REGULATIONS

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For Information concerning Proposed Regulations, see information page.

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## Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates proposed new text.  
Language which has been stricken indicates proposed text for deletion.

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### BOARD OF MEDICINE

**Title of Regulation:** VR 465-02-1. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology and Acupuncture.

**Statutory Authority:** §§ 54.1-2400 and 54.1-2900 et seq. of the Code of Virginia.

**Public Hearing Date:** June 7, 1995 - 1 p.m.

Written comments may be submitted until July 1, 1995.

(See Calendar of Events section for additional information)

**Basis:** Chapters 24 (§ 54.1-2400 et seq.) and 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia provide the basis for these regulations.

Chapter 24 establishes the general powers and duties of health regulatory boards including the power to establish qualifications for licensure and the responsibility to promulgate regulations.

Chapter 29 establishes the Board of Medicine and authorizes that board to regulate, license, and discipline practitioners regulated by the board.

**Purpose:** The purposes for the amendments are as follows:

1. Sexual Contact with Patients. To further specify the terminology contained in the new statute pertaining to unprofessional conduct and increase public protection against practitioners engaging in sexual contact with patients.
2. Chiropractic Licensure. To eliminate unnecessary and burdensome regulations pertaining to chiropractic licensure and increase public access to qualified practitioners.
3. Physician Acupuncturists. To eliminate unnecessary regulations pertaining to physician acupuncturists and increase public access to qualified practitioners.

**Substance:** The key provisions of the amendments are summarized as follows:

1. § 1.10 is added to clarify the statutory prohibition of inappropriate conduct of a sexual nature between practitioners and patients. Specifically it prohibits conduct intended for sexual arousal, gratification, or romantic involvement.
2. §§ 3.1 D and 3.2 D pertaining to the required state chiropractic examination for licensure are deleted.
3. § 4.1 E deletes the requirement for a state examination in chiropractic and specifies the required completion of a national examination or passage of an examination and licensure in another state for licensure in Virginia.

4. § 4.2 is clarified by deleting narrative commentary of physician acupuncturist interventions to conform to 1992 changes in the Code of Virginia.

5. § 7.1 C is amended to eliminate the fee for the state chiropractic examination and to allow a new graduate to sit for the examination at a reduced fee.

#### Issues:

A. Sexual contact with patients.

Section 54.1-2914 A 16 of the Code of Virginia establishes unprofessional conduct to include sexual contact between a practitioner and patient by virtue of the practitioner/patient relationship.

The problem is how to specify sexual contact that would protect the public but not unduly burden the practitioner. The statute is not specific enough to ensure compliance with and to provide guidelines for practitioners, the public, and the board on what constitutes sexual contact.

The two alternatives considered were:

1. To leave the statute unspecified. No additional regulations would be necessary, but the public may not be appropriately protected.

The disadvantages of this alternative to the public and practitioners are: (a) the vagueness of the statute may lead to indiscriminate practice on the part of the practitioner, whereby sexual contact may occur and the practitioner may be unaware, and (b) the vagueness of the statute may lead to complaints against the practitioner when there was not sexual contact occurring.

2. To further specify the statute pertaining to sexual contact within the practitioner/patient relationship.

The advantages of this alternative to the public and practitioners are: (a) the public is better protected against sexual contact by more informed practitioners, (b) the practitioner is better protected against sexual contact by more informed public, and (c) a decrease in public expenses on disciplinary cases brought before the board due to more informed practitioners and public.

There are no disadvantages to the public or to the practitioners who will both be better protected by a more explicit description of sexual contact.

The board proposes these new regulations on sexual contact as the least restrictive while maintaining public protection.

B. Chiropractic licensure.

Sections 54.1-2902 and 54.1-2929 of the Code of Virginia require an individual to have a valid, unrevoked chiropractic license issued by the Board of Medicine to practice chiropractic in the Commonwealth.



In order to practice chiropractic, §§ 54.1-2931 and 54.1-2932 of the Code of Virginia mandate applicants to submit evidence of successful completion of appropriate examinations demonstrating chiropractic competency. Currently, the Virginia Board of Medicine requires evidence of successful completion of a national board examination, which is statutorily defined, as well as a state examination.

This current requirement is similar to all other jurisdictions regulating chiropractic in the United States. The Board of Medicine relies upon a Chiropractic Examination Committee to create the state chiropractic examination. Currently, that examination may, in part, lead to the lowest state index of chiropractor per resident in the United States (Virginia Board of Health Professions, 1993). Because the passing rate for the examination is 100% by the third attempt - within the last three years - the deterrence of chiropractic applicants in Virginia may be the examination, not the content of the examination.

The problem is how to protect the public against unqualified chiropractors without unduly burdening qualified practitioners when applying for licensure.

The two alternatives considered were:

1. To license chiropractors upon evidence of successful completion of chiropractic education, postgraduate education, and national board examinations. The deletion of a state examination would be replaced with postgraduate training.

The disadvantages of this alternative to the public and practitioners are: (a) the didactic training for chiropractors varies between chiropractic schools and preparation for postgraduate training may be inappropriate, and (b) the number of postgraduate training programs are minimal and would not support the demand from applicants for licensure in Virginia.

2. To license chiropractors upon evidence of successful completion of chiropractic education and a national examination. The state examination would be deleted.

The advantages of this alternative to the public and practitioners are: (a) a national board examination is available that is a reliable tool for determining chiropractic competency regardless of the variation in chiropractic education, and (b) an undue burden to the practitioner - further state examination - is deleted: all chiropractic applicants have passed the state examination by the third attempt within the last three years.

There are no disadvantages to the public or to practitioners of the proposed elimination of a state examination. The current national examination provides sufficient protection for the public. Elimination of an additional exam is less burdensome to applicants for licensure.

The board proposes the deletion of the state examination for chiropractic as a requirement for licensure, as other means of competency based evaluation exists - national boards - that demonstrates public protection. The current state examination is an undue burden to the practitioner and does not improve public protection.

## C. Physician acupuncturists.

Section 54.1-2900 of the Code of Virginia establishes requirements for licensure to practice as "physician acupuncturists" through the Board of Medicine. The current regulations reflect older statutory definitions of acupuncture and are not consistent with current statutes.

The problem is how to conform physician acupuncturist requirements for licensure and protect the public. Clarification of the regulations should conform to new statutes allowing nonphysician acupuncturists to practice acupuncture.

The two alternatives considered were:

1. Delete narrative commentary on the practice of acupuncture relating to intervention types, but leave possible outcomes of acupuncture interventions.

The disadvantage of this alternative to the public and practitioners is that specification of side effects from acupuncture may deter patients from seeking such interventions. All health care interventions may incur side effects. When physician acupuncture is the only health care intervention that is specified as to possible side effects within these regulations, then the regulations arbitrarily discriminate against those who may practice or seek physician acupuncture interventions.

2. Delete narrative commentary on the practice and possible outcomes of acupuncture interventions.

The advantage of this alternative to the public and practitioner is that discriminatory language pertaining to the intervention and outcomes of physician acupuncture is deleted, without increased harm to the public.

There is no disadvantage to the public or to physician acupuncturists by elimination of language which is outdated and now in conflict with current law.

The board proposes the deletion of commentary on acupuncture as the least burdensome regulation that maintains public protection.

**Estimated Impact:** Projected number of persons affected and their cost of compliance:

A. Sexual contact: The board disciplines approximately five practitioners per year pertaining to sexual misconduct. With more specific regulations, the number of disciplinary cases may decrease with no fiscal impact on the practitioners. The number of practitioners affected by these amendments are:

	Numbers
1. Doctors of Medicine	23,620
2. Doctors of Osteopathy	527
3. Doctors of Podiatry	466
4. Doctors of Chiropractic	1,007
5. Clinical Psychologists	1,323
6. Physicians Limited License	48
7. Physician Acupuncturists	57
8. Interns and Residents	1,787

# Proposed Regulations

TOTAL: 28,835

B. Chiropractic licensure: With the deletion of the state examination, the 190 applicants for licensure by examination would enter through licensure by endorsement. No fee change is required for licensure by endorsement, however, the new graduate will incur a fee of \$250 for initial license in Virginia.

C. Physician acupuncturists: There are no estimated increases to affected physician acupuncturists due to the amendments. The number of physician acupuncturists currently number 57.

## Implementation costs:

Estimated costs to the agency for implementation of proposed regulations:

Notices and final regulations to Public Participation Mailing List \$600

There are no additional costs of implementation of proposed regulations on sexual contact, chiropractic examination, or language on acupuncture.

There is an estimated savings to the agency of \$50,000 by elimination of a state chiropractic examination and a projected increase of \$1,250 in fees for chiropractic licensure.

## Compliance costs:

	CURRENT FEE	CURRENT ANNUAL REVENUE	PROPOSED FEE	PROPOSED ANNUAL REVENUE	NET CHANGE
EXAMINATION	\$250 x (200)	\$50,000	\$0 x (200)	\$0	(\$50,000)
RE-SCORING EXAM	\$75 x (10)	\$750	\$0 x (10)	\$0	(\$750)
ENDORSEMENT	\$300 x (10)	\$3,000	\$300 x (100)	\$30,000	\$27,000
INITIAL LICENSE OF NEW GRADUATES	\$0 x (100)	\$0	\$250 x (100)	\$25,000	\$25,000
TOTAL		\$53,750		\$55,000	\$1,250 or 2.3%

( ) = ANNUAL NUMBER

## Costs to local governments:

There will be no impact of these regulations on local governments.

## Summary:

*The proposed amendments are intended to provide more specific guidelines for the statutory prohibition on sexual contact with patients for better understanding and compliance by practitioners and for protection of the public. Amendments are also proposed to remove burdensome, outdated language on the practice of acupuncture and to clarify that nonphysicians may also be licensed in acupuncture. Finally, amendments are proposed to eliminate the requirement of a state examination for licensure in chiropractic as being no longer necessary.*

VR 465-02-1. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology and Acupuncture.

## PART I. GENERAL PROVISIONS.

### § 1.1. Definitions.

A. The following words and terms, when used in these regulations, shall have the meaning ascribed to them in § 54.1-2900 of the Code of Virginia:

Acupuncture

Board

Clinical psychologist

Practice of clinical psychology

Practice of medicine or osteopathy

Practice of chiropractic

Practice of podiatry

The healing arts.

B. The following words and terms, when used in these regulations, shall have the following meanings, unless the context clearly indicates otherwise:

"*American institution*" means any accredited licensed medical school, college of osteopathic medicine, school of podiatry, chiropractic college, or institution of higher education offering a doctoral program in clinical psychology, located in the United States, its territories, or Canada.

"*Principal site*" means the location in a foreign country where teaching and clinical facilities are located.

### § 1.2. Public Participation Guidelines.

A separate board regulation, VR 465-01-01, entitled Public Participation Guidelines, which provides for involvement of the

public in the development of all regulations of the Virginia State Board of Medicine, is incorporated by reference in these regulations.

## § 1.3. Advertising ethics.

A. Any statement specifying a fee for professional services which does not include the cost of all related procedures, services and products which, to a substantial likelihood will be necessary for the completion of the advertised service as it would be understood by an ordinarily prudent person, shall be deemed to be deceptive or misleading, or both. Where reasonable disclosure of all relevant variables and considerations is made, a statement of a range of prices for specifically described services shall not be deemed to be deceptive or misleading.

B. Advertising discounted or free service, examination, or treatment and charging for any additional service, examination, or treatment which is performed as a result of and within 72 hours of the initial office visit in response to such advertisement is unprofessional conduct unless such professional services rendered are as a result of a bonafide emergency.

C. Advertisements of discounts shall disclose the full fee and documented evidence to substantiate the discounted fees.

## § 1.4. Vitamins, minerals and food supplements.

A. The use or recommendations of vitamins, minerals or food supplements and the rationale for that use or recommendation shall be documented by the practitioner. The rationale for said use must be therapeutically proven and not experimental.

B. Vitamins, minerals, or food supplements, or a combination of the three, shall not be sold, dispensed, recommended, prescribed, or suggested in toxic doses.

C. The practitioner shall conform to the standards of his particular branch of the healing arts in the therapeutic application of vitamins, minerals or food supplement therapy.

## § 1.5. Anabolic steroids.

It shall be considered unprofessional conduct for a licensee of the board to sell, prescribe, or administer anabolic steroids to any patient for other than accepted therapeutic purposes.

## § 1.6. Misleading or deceptive advertising.

A. A licensee or certificate holder's authorization of or use in any advertising for his practice of the term "board certified" or any similar words or phrase calculated to convey the same meaning shall constitute misleading or deceptive advertising under § 54.1-2914 of the Code of Virginia, unless the licensee or certificate holder discloses the complete name of the specialty board which conferred the aforementioned certification.

B. It shall be considered unprofessional conduct for a licensee of the board to publish an advertisement which is false, misleading, or deceptive.

## § 1.7. Current business addresses.

Each licensee shall furnish the board his current business address. All notices required by law or by these regulations to

be mailed by the board to any such licensee shall be validly given when mailed to the latest address given by the licensee. Any change of address shall be furnished to the board within 30 days of such change.

## § 1.8. Solicitation or remuneration in exchange for referral.

It shall be unprofessional conduct for a licensee of the board to knowingly and willfully solicit or receive any remuneration, directly or indirectly, in return for referring an individual to a facility or institution as defined in § 37.1-179 of the Code of Virginia, or hospital as defined in § 32.1-123 of the Code of Virginia.

Remuneration shall be defined as compensation, received in cash or in kind, but shall not include any payments, business arrangements, or payment practices allowed by Title 42, § 1320a-7b(b) of the United States Code, as amended, or any regulations promulgated thereto.

## § 1.9. Pharmacotherapy for weight loss.

A. It shall be unprofessional conduct for a physician to prescribe amphetamine, Schedule II, for the purpose of weight reduction or control.

B. It shall also be unprofessional conduct for a physician to prescribe amphetamine-like drugs, Schedules III and IV, for the purpose of weight reduction or control in the treatment of obesity, except as a short-term adjunct to a therapeutic regimen of weight reduction.

C. It shall be unprofessional conduct for a physician to prescribe amphetamine-like substances for use as an anorectic agent in children under 12 years of age.

## § 1.10. Sexual contact with patients.

A. For purposes of § 54.1-2914 A 16 of the Code of Virginia, sexual contact between a practitioner and a patient includes, but is not limited to, sexual behavior or involvement with a patient including verbal or physical behavior which:

1. May reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient, or both; or
2. May reasonably be interpreted as romantic involvement with a patient regardless of whether such involvement occurs in the professional setting or outside of it.

B. The determination of when a person is a patient for purposes of § 54.1-2914 A 16 of the Code of Virginia is made on a case-by-case basis with consideration given to the nature, extent, and context of the professional relationship between the practitioner and the person. The fact that a person is not actively receiving treatment or professional services from a practitioner is not determinative of this issue. A person is presumed to remain a patient until the patient-practitioner relationship is terminated. Sexual contact between a practitioner and a former patient after termination of the practitioner-patient relationship may still constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence of emotions derived from the professional relationship.

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C. A patient's consent to, initiation of, or participation in sexual behavior or involvement with a practitioner does not change the nature of the conduct nor lift the statutory prohibition.

## PART II.

### LICENSURE: GENERAL REQUIREMENTS AND LICENSURE BY EXAMINATION.

#### § 2.1. Licensure, general.

A. No person shall practice medicine, osteopathy, chiropractic, podiatry, acupuncture, or clinical psychology in the Commonwealth of Virginia without a license from this board, except as provided in § 4.3, ~~Exemption for temporary consultant~~, of these regulations.

B. For all applicants for licensure by this board except those in clinical psychology, licensure shall be by examination by this board or by endorsement, whichever is appropriate.

C. Applicants for licensure in clinical psychology shall take the examination of the Virginia State Board of Psychology, which will recommend those qualifying to the Board of Medicine for licensure.

#### § 2.2. Licensure by examination.

##### A. Prerequisites to examination.

1. Every applicant for examination by the Board of Medicine for initial licensure shall:

- a. Meet the educational requirements specified in subdivision 2 or 3 of this subsection;
- b. File the complete application and credentials required in subdivision 4 of this subsection with the executive director of the board not less than 75 days prior to the date of examination; and
- c. Pay the appropriate fee, specified in § 7.1, of these regulations, at the time of filing the application.

2. Education requirements: Graduates of American institutions. Such an applicant shall be a graduate of an American institution that meets the criteria of subdivision a, b, c, or d of § 2.2 A 2, whichever is appropriate to the profession in which he seeks to be licensed:

a. For licensure in medicine. The institution shall be a medical school that is approved or accredited by the Liaison Committee on Medical Education or other official accrediting body recognized by the American Medical Association, or by the Committee for the Accreditation of Canadian Medical Schools or its appropriate subsidiary agencies or any other organization approved by the board.

An applicant shall provide evidence of having completed one year of satisfactory postgraduate training as an intern or resident in a hospital or health care facility offering approved internship and residency training programs when such a program is approved by an accrediting agency recognized by the board for internship and residency training.

b. For licensure in osteopathy. The institution shall be a college of osteopathic medicine that is approved or

accredited by the Committee on Colleges and Bureau of Professional Education of the American Osteopathic Association or any other organization approved by the board.

An applicant shall provide evidence of having completed one year of satisfactory postgraduate training as an intern or resident in a hospital or health care facility offering approved internship and residency training programs when such a program is approved by an accrediting agency recognized by the board for internship and residency training.

c. For licensure in podiatry. The institution shall be a school of podiatry approved and recommended by the Council on Podiatry Education of the American Podiatry Medical Association or any other organization approved by the board.

An applicant shall provide evidence of having completed one year of satisfactory postgraduate training as an intern or resident in a hospital or health care facility offering approved internship and residency training programs when such a program is approved by an accrediting agency recognized by the board for internship and residency training.

d. For licensure in chiropractic.

(1) If the applicant matriculated in a chiropractic college on or after July 1, 1975, he shall be a graduate of a chiropractic college accredited by the Commission on Accreditation of the Council of Chiropractic Education or any other organization approved by the board.

(2) If the applicant matriculated in a chiropractic college prior to July 1, 1975, he shall be a graduate of a chiropractic college accredited by the American Chiropractic Association or the International Chiropractic Association or any other organization approved by the board.

3. Educational requirements: Graduates and former students of schools not approved by an accrediting agency recognized by the board shall:

a. Present documentary evidence that he:

(1) Was enrolled and physically in attendance at the institution's principal site for a minimum of two consecutive years and fulfilled at least half of the degree requirements while enrolled two consecutive academic years at the institution's principal site.

(2) Received a degree from the institution; and

(3) Has fulfilled the applicable requirements of § 54.1-2930 of the Code of Virginia.

(4) Has completed three years of satisfactory postgraduate training as an intern or resident in a hospital or health care facility offering an approved internship or residency training program when such a program is approved by an accrediting agency recognized by the board for internship and residency. The board may substitute other postgraduate training or study for up to two years of the three-year

requirement when such training or study has occurred in the United States or Canada and is:

- (a) An approved fellowship program; or
- (b) A position teaching medical students, interns, or residents in a medical school program approved by an accrediting agency recognized by the board for internship and residency training.

(5) The board may substitute continuous full-time practice of five years or more with a limited professorial license in Virginia, and one year of postgraduate training in a foreign country, in lieu of three years of postgraduate training.

(6) The Virginia Board of Medicine recognizes as accrediting agencies the Liaison Committee on Graduate Medical Education (LCGME) and the Liaison Committee on Medical Education (LCME) of the American Medical Association, the American Osteopathic Association and the American Podiatric Medical Association and the License Medical Council of Canada (LMCC) or other official accrediting bodies recognized by the American Medical Association.

b. A graduate of a school not approved by an accrediting agency recognized by the board applying for examination for licensure in medicine or osteopathy shall also possess a standard Educational Council of Foreign Medical Graduates certificate (ECFMG), or its equivalent. Proof of licensure by the board of another state or territory of the United States or a Province of Canada may be accepted in lieu of ECFMG certification.

c. An applicant for examination for licensure in medicine who completed all degree requirements except social services and postgraduate internship at a school not approved by an accrediting agency recognized by the board shall be admitted to examination provided that he:

- (1) Was enrolled at the institution's principal site for a minimum of two consecutive years and fulfilled at least half of the degree requirements while enrolled at the institution's principal site;
- (2) Has qualified for and completed an appropriate supervised clinical training program as established by the American Medical Association;
- (3) Has completed the postgraduate hospital training required of all applicants for licensure as defined in § 54.1-2930 of the Code of Virginia; and
- (4) Has completed three years of satisfactory postgraduate training as an intern or resident in a hospital or health care facility offering an approved internship or residency training program when such a program is approved by an accrediting agency recognized by the board for internship and residency. The board may substitute other postgraduate training or study for up to two years of the three-year requirement when such training or study has occurred in the United States or Canada and is:

(a) An approved fellowship program; or

(b) A position teaching medical students, interns, or residents in a medical school program approved by an accrediting agency recognized by the board for internship and residency training.

(5) The Virginia Board of Medicine recognizes as accrediting agencies the Liaison Committee on Graduate Medical Education (LCGME) and the Liaison Committee on Medical Education (LCME) of the American Medical Association, the American Osteopathic Association and the American Podiatric Medical Association and the License Medical Council of Canada (LMCC) or other official accrediting bodies recognized by the American Medical Association.

(6) Presents a document issued by the school not approved by an accrediting agency recognized by the board certifying that he has met all the formal requirements of the institution for a degree except social services and postgraduate internship.

4. Credentials to be filed prior to examination. Applicants shall file with the executive director of the board, along with their applications for board examination (and at least 75 days prior to the date of examination) the credentials specified in ~~subdivisions~~ *subdivision a, b, or c of § 2.2 A 4, whichever are is appropriate:*

a. Every applicant who is a graduate of an American institution shall file:

- (1) Documentary evidence that he received a degree from the institution; and
- (2) A complete chronological record of all professional activities since graduation, giving location, dates, and types of services performed.

b. Every applicant who attended a school not approved by an accrediting agency recognized by the board shall file:

- (1) The documentary evidence of education required by subdivision 3 a, b, or c of this subsection, whichever is or are appropriate;
- (2) All such documents not in the English language, a translation made and endorsed by a consul or by a professional translating service; and
- (3) A complete chronological record of all professional activities since the applicant attended the school not approved by an accrediting agency recognized by the board, giving location, dates, and types of services performed.

c. Every applicant discharged from the United States military service within the last 10 years shall in addition file with his application a notarized photostatic copy of his discharge papers.

B. Applicants for licensure by board examination shall take the appropriate examination prescribed by the board as provided in § 3.1 Examinations, of these regulations.



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§ 2.3. Supervision of unlicensed persons practicing as psychologists in exempt settings; reporting requirements.

A. Pursuant to subdivision 4 of § 54.1-3601 of the Code of Virginia, supervision by a licensed psychologist shall mean that the supervisor shall:

1. Provide supervision of unlicensed personnel who are providing psychological services as defined in § 54.1-3600 and who are functioning in practice and title as a professional psychologist, including the review of assessment protocols, intervention plans and psychological reports, with review denoted by countersignature on all client records and reports as specified in the required protocols within 30 days of origination;
2. Determine and carry out instructional and evaluative consultation with supervisees appropriate to their levels of training and skill, and adjust their service delivery according to current standards of professional practice; and
3. Supervise only those psychological services that fall within the supervisor's area of competence as demonstrated by his own professional practice and experience.

B. A clinical psychologist who is providing supervision, as provided for in subdivision 4 of § 54.1-3601, shall:

1. Submit to the board, within 120 days of the effective date of this regulation, a copy of the supervisory protocol established for each unlicensed supervisee and signed by the supervisor, supervisee, and authorized representative of the institution or agency.
2. Notify the board of any changes in supervisory relationships, including terminations or additions, prior to or within 10 days of such change, with copies of supervisory protocol for all new supervisory relationships to follow within 30 days of such notice.

## PART III. EXAMINATIONS.

### § 3.1. Examinations, general.

A. Applicants for licensure in medicine and osteopathy may take Components I and II of the Federation Licensing Examination (FLEX) separately or as a unit. However, in no case shall an applicant who has not passed Component I be eligible to sit for Component II as a separate examination. The examination results shall be reported to the candidate as pass/fail.

1. Applicants for licensure in medicine and osteopathy may be eligible to sit for Step 3 of the United States Medical Licensing Examination (USMLE) upon evidence of having passed Steps 1 and 2 of the United States Medical Licensing Examination (USMLE).
2. Applicants who have successfully passed Component I of the FLEX may be eligible to sit for Step 3 of the United States Medical Licensing Examination (USMLE) for licensure in Virginia.

B. Applicants who have taken both Components I and II of the Federation Licensing Examination (FLEX), in one sitting, and have failed to pass both components, or have taken and passed only one component in another state or territory of the United States, the District of Columbia, or Province of Canada, and have met all other requirements for licensure in Virginia may be eligible to take the failed or missing component upon payment of the fee prescribed in § 7.1.

C. Applicants for licensure in podiatry shall provide evidence of having passed the National Board of Podiatric Medical Examiners Examination, Parts I and II, to be eligible to sit for the Podiatric Medical Licensing Examination (PMLEXIS) in Virginia. The examination results shall be reported to the candidate as pass/fail.

~~D. Applicants for licensure in chiropractic shall provide evidence of having passed the National Board of Chiropractic Examiners Examination, Parts I, II and III, to be eligible to sit for the Virginia licensure examination administered by the board. Applicants who graduated prior to January 31, 1991, shall not be required to show evidence of having passed the National Board of Chiropractic Examiners Examination Part III to be eligible to sit for the licensure examination required by the board. A minimum score of 75 is required to pass the examination.~~

### § 3.2. Reexamination.

A. An applicant for licensure by examination who fails three consecutive attempts to pass the examination(s) administered by the board shall be eligible to sit for another series of three consecutive attempts upon presenting proof to the Credentials Committee of the board that he has fulfilled the requirements of subsection B, or C, ~~or D~~ of this section, whichever is appropriate.

B. An applicant for licensure in medicine or osteopathy who fails three consecutive attempts to pass Component I and Component II, or Parts I, II, and III of the FLEX examination or the United States Medical Licensing Examination in Virginia or any other state or territory of the United States, the District of Columbia, or Province of Canada, or a combination of either of these examinations, shall engage in one year of additional postgraduate training to be obtained in a hospital in the United States or Canada approved by the American Medical Association or the American Osteopathic Association.

C. An applicant for licensure in podiatry who fails three consecutive attempts to pass the Virginia examination administered by the board shall appear before the Credentials Committee of the board and shall engage in such additional postgraduate training as may be deemed appropriate by the Credentials Committee.

~~D. An unsuccessful candidate for chiropractic licensure after each series of three unsuccessful attempts for licensure by examination, shall engage in one year of additional professional training approved by the board before he will be eligible to retake another series of examinations.~~

### § 3.3. Administration of examination.

A. The board may employ monitors for the examination.

B. For examinations given by the board other than those for which answer sheets are furnished, plain paper shall be used,

preferably white, and no reference shall be made indicating either school or date of graduation. One side of paper only may be written upon and as soon as each sheet is finished, it shall be reversed to prevent its being read by others.

C. Questions will be given out and papers collected punctually at the appointed time and all papers shall be handed in at once when expiration time is announced by the chief proctor.

D. Sections of the examination shall be in such sequence as may be determined by the Federation Licensure Examination (FLEX) Committee or appropriate testing agency.

E. The order of examination shall be posted or announced at the discretion of the board. If the board has no objections, the examiners may exchange hours or days of monitoring the examination.

F. For the guidance of examiners and examinees, the following rules shall govern the examination.

1. Only members of the board, office staff, proctors, and applicants shall be permitted in the examination room, except by consent of the chief proctor.
2. Applicants shall be seated as far apart as possible at desks or desk chairs and each shall have in plain view an admission card bearing his number and photograph.
3. No examinee shall have any compendium, notes or textbooks in the examination room.
4. Any conversation between applicants will be considered prima facie evidence of an attempt to give or receive assistance.
5. Applicants are not permitted to leave the room except by permission of and when accompanied by an examiner or monitor.
6. The use of unfair methods will be grounds to disqualify an applicant from further examination at that meeting.
7. No examiner shall tell an applicant his grade until the executive director has notified the applicant that he has passed or failed.
8. No examination will be given in absentia or at any time other than the regularly scheduled examination.
9. The chief proctor shall follow the rules and regulations recommended by the FLEX Test Committee or other testing agencies.

### § 3.4. Scoring of examination.

Scores forwarded to the executive director shall be provided to the candidate within 30 days or receipt of the scores provided by the testing service.

## PART IV. LICENSURE BY ENDORSEMENT.

### § 4.1. Licensure by endorsement.

A. An applicant for licensure by endorsement will be considered on his merits and in no case shall be licensed unless the Credentials Committee is satisfied that he has passed an examination equivalent to the Virginia Board of

Medicine examination at the time he was examined and meets all requirements of Part II of these regulations.

B. A Doctor of Medicine who meets the requirements of Part II of these regulations and has passed the examination of the National Board of Medical Examiners, FLEX, United States Medical Licensing Examination, or the examination of the Licensing Medical Council of Canada may be accepted for licensure by endorsement without further examination.

No applicant for licensure to practice medicine and surgery by endorsement will be considered for licensure unless the applicant has met all the following requirements for pre or postgraduate training as follows:

1. Graduates of schools of medicine approved by an accrediting agency recognized by the board shall have completed one year of satisfactory postgraduate training as an intern or resident in a hospital approved by the Accreditation Council for Graduate Medical Education, Licensing Medical Council of Canada or other official accrediting body recognized by the American Medical Association for intern or residency training.
2. Graduates of schools of medicine not approved by an accrediting agency recognized by the board who serve supervised clinical training in the United States as part of the curriculum of a school not approved by an accrediting agency recognized by the board, shall serve the clerkships in an approved hospital, institution or school of medicine offering an approved residency program in the specialty area for the clinical training received.
3. Graduates of schools of medicine not approved by an accrediting agency recognized by the board shall have completed three years of satisfactory postgraduate training as an intern or resident in a hospital approved by the Accreditation Council for Graduate Medical Education, Licensing Medical Council of Canada or other official accrediting body recognized by the American Medical Association for intern or residency training. The board may substitute other postgraduate training or study for up to two years of the three-year requirement when such training or study has occurred in the United States or Canada and is:
  - a. An approved fellowship program; or
  - b. A position teaching medical students, interns, or residents in a medical school program approved by an accrediting agency recognized by the board for internship and residency training.
4. The board may substitute continuous full-time practice of five years or more with a limited professorial license in Virginia, and one year of postgraduate training in a foreign country, in lieu of the three years of postgraduate training.
5. An applicant for licensure by the FLEX examination or the United States Medical Licensing Examination who has experienced three unsuccessful attempts, shall submit proof of one additional year of approved postgraduate studies in the United States following each series of three attempts to pass the FLEX or the United States Medical Licensing Examination to be eligible for licensure to practice medicine and surgery in Virginia.

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6. Applicants who have sat for the United States Medical Licensing Examination shall provide evidence of passing Steps 1, 2, and 3 within a seven-year period.

C. A Doctor of Osteopathy who meets the requirements of Part II of these regulations and has passed the examination of the National Board of Osteopathic Examiners may be accepted for licensure by endorsement without further examination.

No applicant for licensure to practice osteopathy by endorsement will be considered for licensure unless the applicant has met all the following requirements for pre or postgraduate training as follows:

1. Graduates of schools of osteopathy approved by an accrediting agency recognized by the board shall have completed one year of satisfactory postgraduate training as an intern or resident in a hospital approved by the American Osteopathic Association, the American Medical Association, Licensing Medical Council of Canada or other official accrediting body recognized by the American Osteopathic Association, or the American Medical Association for intern or residency training.

2. Graduates of schools of osteopathy not approved by an accrediting agency recognized by the board who serve supervised clinical training in the United States as part of curriculum of a foreign osteopathic school, shall serve the clerkships in an approved hospital, institution or school of osteopathy or medicine offering an approved residency program in the specialty area for the clinical training received.

3. Graduates of schools of osteopathy not approved by an accrediting agency recognized by the board shall have completed three years of satisfactory postgraduate training as an intern or resident in a hospital approved by the American Osteopathic Association, the Accreditation Council for Graduate Medical Education, Licensing Medical Council of Canada or other official accrediting body recognized by the American Osteopathic Association, or the American Medical Association for intern or residency training. The board may substitute other postgraduate training or study for up to two years of the three-year requirement when such training or study has occurred in the United States or Canada and is:

a. An approved fellowship program; or

b. A position teaching osteopathic or medical students, interns, or residents in an osteopathic or medical school program approved by an accrediting agency recognized by the board for internship and residency training.

4. An applicant for licensure by the FLEX examination or the United States Medical Licensing Examination who has experienced three unsuccessful attempts, shall submit proof of one additional year of approved postgraduate studies in the United States following each series of three attempts to pass the FLEX or the United States Medical Licensing Examination to be eligible for licensure to practice osteopathy and surgery in Virginia.

5. Applicants who have sat for the United States Medical Licensing Examination shall provide evidence of passing Steps 1, 2, and 3 within a seven-year period.

D. A Doctor of Podiatry who meets the requirements of Part II of these regulations, and has passed the National Board of Podiatry Examiners examination and has passed a clinical competence examination equivalent to the Virginia Board of Medicine examination may be accepted for licensure by endorsement without further examination.

E. A Doctor of Chiropractic who meets the requirements of Part II of these regulations, who has passed the National Board of Chiropractic Examiners examination, and has passed an examination equivalent to the Virginia Board of Medicine Part III examination, and one of the following, may be accepted for licensure without further examination.

1. An applicant who graduated after January 31, 1991, shall document successful completion of Parts I, II, and III of the National Board of Chiropractic Examiners examination (NBCE).

2. An applicant who graduated from July 1, 1965, to January 31, 1991, shall document successful completion of Parts I, II, and III of the NBCE, or Parts I and II of the NBCE and the Special Purpose Examination for Chiropractic (SPEC), and document evidence of licensure in another state for at least two years immediately preceding their application.

3. An applicant who graduated prior to July 1, 1965, shall document successful completion of the SPEC, and document evidence of licensure in another state for at least two years immediately preceding their application.

§ 4.2. Licensure to practice acupuncture as a physician acupuncturist.

Acupuncture is an experimental therapeutic procedure, used primarily for the relief of pain, which involves the insertion of needles at various points in the human body. There are many acupuncture points, and these points are located on most portions of the human body. Insufficient information is available regarding the general usefulness of acupuncture and the risks attendant. Among the risks that attend upon it are the possibilities of prolonged and inappropriate therapy. It is clear that the administration of acupuncture is accompanied by the possibility of serious side effects and injuries, and there are reported cases of such injuries. Possible complications and injuries include peritonitis, damage from broken needles, infections, serum hepatitis, acquired immunity deficiency syndrome, pneumothorax, cerebral vascular accident (stroke), damage to the eye or the external or middle ear, and the inducement of cardiac arrhythmia.

In the judgment of the board, acupuncture shall be performed only by those practitioners of the healing arts who are trained and experienced in medicine, as only such a practitioner has (i) skill and equipment to determine the underlying cause of the pain; (ii) the capability of administering acupuncture in the context of a complete patient medical program in which other methods of therapeutics and relief of pain, including the use of drugs and other medicines, are considered and coordinated with the acupuncture treatment;

and (iii) skill and training which will minimize the risks attendant with its use.

Based on the foregoing considerations, The board will license as *physician acupuncturists* only doctors of medicine, osteopathy, and podiatry, as only these practitioners have demonstrated a competence in medicine by passing the medicine/osteopathy licensure examination or podiatry licensure examination.

No person shall practice acupuncture as a *physician acupuncturist* in the Commonwealth of Virginia without being licensed by the board to do so.

The board shall license as *physician acupuncturists* only licensed doctors of medicine, osteopathy, and podiatry. Such licensure shall be subject to the following condition: The applicant shall first have obtained at least 200 hours of instruction in general and basic aspects, specific uses and techniques of acupuncture and indications and contraindications for acupuncture administration.

A podiatrist may use acupuncture only for treatment of pain syndromes originating in the human foot.

The licensee shall maintain records of the diagnosis, treatment and patient response to acupuncture and shall submit records to the board upon request.

Failure to maintain patient records of those patients treated with acupuncture or failure to respond to the board's request for patient records within 30 days shall be grounds for suspension or revocation of a license to practice acupuncture.

#### § 4.3. Exemption for temporary consultant.

A. A practitioner may be exempted from licensure in Virginia if:

1. He is authorized by another state or foreign country to practice the healing arts;
2. Authorization for such exemption is granted by the executive director of the board; and
3. The practitioner is called in for consultation by a licensee of the Virginia Board of Medicine.

B. Such practitioner shall not open an office or designate a place to meet patients or receive calls from his patient within this Commonwealth, nor shall he be exempted from licensure for more than two weeks unless such continued exemption is expressly approved by the board upon a showing of good cause.

#### § 4.4. Limited licenses to foreign medical graduates.

A. A physician who graduated from a school not approved by an accrediting agency recognized by the board applying for a limited professorial license to practice medicine in an approved medical school or college in Virginia shall:

1. Submit evidence of authorization to practice medicine in a foreign country.
2. Submit evidence of a standard Educational Commission for Foreign Medical Graduates (ECFMG) certificate or its equivalent.

3. Submit a recommendation from the dean of an accredited medical school in Virginia that the applicant is a person of professorial rank whose knowledge and special training will benefit the medical school.

B. The limited professorial license applies only to the practice of medicine in hospitals and outpatient clinics where medical students, interns or residents rotate and patient care is provided by the medical school or college recommending the applicant. The license will be valid for one year and may be renewed annually upon recommendation of the dean of the medical school and upon continued full-time employment as a faculty member.

C. An individual who has practiced with a limited professorial license for five continuous years may have a waiver when applying for a full license to practice medicine in the Commonwealth of Virginia. The limited professorial licensee applying for a full license shall meet the requirements of §§ 2.2 and 4.1.

D. A physician who graduated from a school not approved by an accrediting agency recognized by the board applying for a limited fellow license to practice medicine in an approved medical school or college in Virginia shall:

1. Submit evidence of authorization to practice medicine in a foreign country.
2. Submit evidence of a standard Educational Commission for Foreign Medical Graduates (ECFMG) certificate or its equivalent.
3. Submit a recommendation from the dean of an accredited medical school in Virginia that the applicant is a person of fellow rank whose knowledge and special training will benefit the medical school.

E. The limited fellow license applies only to the practice of medicine in hospitals and outpatient clinics where medical students, interns or residents rotate and patient care is provided by the medical school or college recommending the applicant. The license will be valid for one year and may be renewed not more than twice upon the recommendation of the dean of the medical school and upon continued full-time employment as a fellow.

#### § 4.5. Temporary licenses to interns and residents.

A. An intern or resident applying for a temporary license to practice in Virginia shall:

1. Successfully complete the preliminary academic education required for admission to examinations given by the board in his particular field of practice, and submit a letter of confirmation from the registrar of the school or college conferring the professional degree, or official transcripts confirming the professional degree and date the degree was received.
2. Submit a recommendation from the applicant's chief or director of graduate medical education of the approved internship or residency program specifying acceptance. The beginning and ending dates of the internship or residency shall be specified.
3. Submit evidence of a standard Educational Commission for Foreign Medical Graduates (ECFMG)

# Proposed Regulations

certificate or its equivalent if the candidate graduated from a school not approved by an accrediting agency recognized by the board.

B. The intern or resident license applies only to the practice in the hospital or outpatient clinics where the internship or residency is served. Outpatient clinics in a hospital or other facility must be a recognized part of an internship or residency program.

C. The intern or resident license shall be renewed annually upon the recommendation of the chief or director of graduate medical education of the internship or residency program no more than five times.

A residency program transfer request shall be submitted to the board in lieu of a full application.

D. The extent and scope of the duties and professional services rendered by the intern or resident shall be confined to persons who are bona fide patients within the hospital or who receive treatment and advice in an outpatient department of the hospital or outpatient clinic where the internship or residency is served.

E. The intern and resident shall be responsible and accountable at all times to a fully licensed member of the staff where the internship or residency is served. The intern and resident is prohibited from employment outside of the graduate medical educational program where a full license is required.

F. The intern or resident shall abide by the respective accrediting requirements of the internship or residency as approved by the Liaison Council on Graduate Education of the American Medical Association, American Osteopathic Association, American Podiatric Medical Association, or Council on Chiropractic Education.

## PART V.

### RENEWAL OF LICENSE; REINSTATEMENT.

#### § 5.1. Renewal of license.

Every licensee who intends to continue his practice shall renew his license biennially during his birth month and pay to the board the renewal fee prescribed in § 7.1 of these regulations.

A practitioner who has not renewed his license by the first day of the month following the month in which renewal is required shall be dropped from the registration roll.

An additional fee to cover administrative costs for processing a late application shall be imposed by the board. The additional fee for late renewal of licensure shall be \$25 for each renewal cycle.

#### § 5.2. Reinstatement of lapsed license.

A practitioner who has not renewed his certificate in accordance with § 54.1-2904 of the Code of Virginia for two successive years or more and who requests reinstatement of licensure shall:

1. Submit to the board a chronological account of his professional activities since the last renewal of his license; and

2. Pay the reinstatement fee prescribed in § 7.1 of these regulations.

## PART VI.

### ADVISORY COMMITTEES AND PROFESSIONAL BOARDS.

#### § 6.1. Advisory Committee on Acupuncture.

The board may appoint an Advisory Committee on *Physician Acupuncture* from licensed practitioners in this Commonwealth to advise and assist the board on all matters relating to *physician acupuncture*. The committee shall consist of three members from the state-at-large and two members from the board. Nothing herein is to be construed to make any recommendation by the Advisory Committee on *Physician Acupuncture* binding upon the board. The term of office of each member of the committee shall be for one year or until his successor is appointed.

#### § 6.2. Psychiatric Advisory Committee.

A. The board may appoint a Psychiatric Advisory Committee from licensed practitioners in this Commonwealth to examine persons licensed under these regulations and advise the board concerning the mental or emotional condition of such person when his mental or emotional condition is an issue before the board. Nothing herein is to be construed to make any recommendations by the Psychiatric Advisory Committee binding upon the Board of Medicine.

B. The term of office for each member of the Psychiatric Advisory Committee shall be one year or until his successor is appointed.

## PART VII.

### FEES REQUIRED BY THE BOARD.

#### § 7.1. Fees required by the board are:

A. Examination fee for medicine or osteopathy: The fee for the Federation Licensing Examination (FLEX) for Component I shall be \$275 and Component II shall be \$325. Upon successfully passing both components of the Federation Licensing Examination (FLEX) in Virginia, the applicant shall be eligible for licensure upon payment of a licensure fee of \$125 to the board. The fee for the United States Medical Licensing Examination (USMLE) shall be \$550.

B. Examination fee for podiatry: The fee for the Podiatry Licensure Examination shall be \$350.

C. ~~Examination fee for chiropractic: The fee for the Virginia Chiropractic Examination shall be \$250. The fee for initial licensure for new graduates of doctors of chiropractic who do not hold a license in Virginia or another state license shall be \$250.~~

D. The fees for taking the FLEX USMLE Part III, podiatry, and chiropractic examination are nonrefundable. An applicant may, upon request 21 days prior to the scheduled exam, and payment of a \$100 fee, reschedule for the next time such examination is given.

~~E. The fee for rescoring the Virginia Chiropractic Examination or the Virginia Podiatry Examination shall be \$75.~~

F. E. Certification of licensure: The fee for certification of licensure/grades to another state or the District of Columbia by



the board shall be \$25. The fee shall be due and payable upon submitting the form to the board.

~~G. F.~~ The fee for a limited license issued pursuant to § 54.1-2936 of the Code of Virginia shall be \$125. The annual renewal is \$25.

~~H. G.~~ The fee for a duplicate certificate shall be \$25.

~~I. H.~~ Biennial renewal of license: The fee for renewal shall be \$125, due in the licensee's birth month. An additional fee to cover administrative costs for processing a late application may be imposed by the board. The additional fee for late renewal of licensure shall be \$25 for each renewal cycle.

~~J. I.~~ The fee for requesting reinstatement of licensure pursuant to § 54.1-2921 of the Code of Virginia shall be \$750.

~~K. J.~~ The fee for a temporary permit to practice medicine pursuant to § 54.1-2927 B of the Code of Virginia shall be \$25.

~~L. K.~~ The fee for licensure by endorsement for medicine, osteopathy, chiropractic, and podiatry shall be \$300. A fee of \$150 shall be retained by the board for a processing fee upon written request from the applicant to withdraw his application for licensure.

~~M. L.~~ The fee for licensure to practice acupuncture shall be \$100.

The biennial renewal fee shall be \$80, due and payable by June 30 of each even-numbered year.

~~N. M.~~ Lapsed license: The fee for reinstatement of a license issued by the Board of Medicine pursuant to § 54.1-2904, which has expired for a period of two years or more, shall be \$250 and shall be submitted with an application for licensure reinstatement.

~~O. N.~~ The fee for a limited license issued pursuant to § 54.1-2937 shall be \$10 a year. An additional fee for late renewal of licensure shall be \$10.

~~P. O.~~ The fee for a letter of good standing/verification to another state for a license shall be \$10.

~~Q. P.~~ The fee for taking the Special Purpose Examination (SPEX) shall be \$350. The fee shall be nonrefundable.

~~R. Q.~~ Any applicant having passed one component of the FLEX examination in another state shall pay \$325 to take the other component in the Commonwealth of Virginia.

**NOTICE:** The forms used in administering the Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology and Acupuncture are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, Board of Medicine, 6606 West Broad Street, Richmond, Virginia 23230, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia 23219.

Application for a License to Practice Medicine/Osteopathy (Rev. 3/94)

Claims History Sheet (Rev. 7/93) #A

Employment Verification/Reference (Rev. 7/93) #B

Clearance From Other State Boards (Rev. 7/93) #C

Virginia Request for Physician Profile (Rev. 7/93) #D

Disciplinary Inquiries (Rev. 7/93) #E

Certificate of Secretary of State Board Issuing Original License (Rev. 7/93) #F

Instructions for Completing National Boards Endorsement Application, HRB-30-005 (10/94)

Instructions for Completing National Board of Osteopathic Examiners Endorsement Application, HRB-30-006 (10/94)

Instructions for Completing FLEX Endorsement Application, American Graduate, HRB-30-007 (10/94)

Instructions for Completing FLEX Endorsement Application, Non-American Graduate, HRB-30-008 (10/94)

Instructions for Completing LMCC Endorsement Application, Canadian/American Graduate, HRB-30-009 (10/94)

Instructions for Completing Other Boards Endorsement Application, American Graduate, HRB-30-001 (10/94)

Instructions for Completing Other Boards Endorsement Application, Non-American Graduate, HRB-30-002 (10/94)

Instructions for Completing Other Boards/American Boards Endorsement Application, American Graduate, HRB-30-003 (10/94)

Instructions for Completing Other Boards/American Boards Endorsement Application, Non-American Graduate, HRB-30-004 (10/94)

Information and Instructions for Completing an Application for the United States Medical Licensing Examination (USMLE) (Rev. 11/94)

Information and Instructions for Completing an Application for the United States Medical Licensing Examination (USMLE) For Foreign Graduates (Rev. 11/94)

Application for a License to Practice Podiatry (Rev. 3/94)

Employment Verification/Reference (Rev. 5/94) #B

Virginia Request for Podiatry Disciplinary Action (Rev. 7/93) #J

Clearance from Other State Boards (Rev. 5/94) Form # C (P)

Instructions Regarding the Podiatry Examination - (PMLexis) (Rev. 9/94)

Instructions for Completing Podiatry Endorsement Application, HRB-30-015 (10/94)

Application for a License to Practice Chiropractic, DHP-03-058 (Rev. 3/94)

Chiropractic Employment/Professional Activity Questionnaire (Rev. 7/93) #B

Chiropractic Clearance from Other State Board (Rev. 7/93) #C

Certificate of Secretary of State Board Issuing Original License, #F

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Instructions for Completing Chiropractic Endorsement Application, HRB-30-016 (10/94)

Application for a License to Practice Acupuncture (Rev. 7/93)

Acupuncture Programs Approved by the Virginia Board of Medicine

Instructions for Completing an Application for Licensure to Practice Acupuncture

Application for a Temporary License for Intern/Resident Training Program, DHP-030-061 (Rev. 3/94)

Certificate of Enrollment, Intern/Resident (Rev. 7/93) Form A

Certificate of Professional Education, Intern/Resident (Rev. 7/93) Form B

Requirements and Instructions for an Intern/Resident License, HRB-30-061 (Rev. 2/7/92)

VA.R. Doc. No. R95-421; Filed April 12, 1995, 10:04 a.m.

# FINAL REGULATIONS

For Information concerning Final Regulations, see information page.

## Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a substantial change from the proposed text of the regulation.

## DEPARTMENT OF HEALTH (STATE BOARD OF)

**Title of Regulation:** VR 355-28-300. Regulations for the Immunization of School Children.

**Statutory Authority:** §§ 22.1-271.2, 32.1-12 and 32.1-46 of the Code of Virginia.

**Effective Date:** August 1, 1995.

### Summary:

*The Board of Health has added the hepatitis B vaccine to the list of vaccines prescribed in these regulations requiring children who will be enrolling in school/day care to have documentary proof of immunization against measles, mumps, rubella, diphtheria, tetanus, pertussis, polio, Haemophilus influenzae type b disease, and hepatitis B.*

*The requirement for hepatitis B vaccine will become effective on August 1, 1995. This will provide ample time for parents to have their children immunized and reduce the burden on physicians who will have to administer the vaccine.*

**Summary of Public Comment and Agency Response:** A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

**Agency Contact:** Copies of the regulation may be obtained from Marie Krauss, Virginia Department of Health, Bureau of Immunization, P.O. Box 2448, Room 120, Richmond, Virginia 23218, telephone (804) 786-6246.

VR 355-28-300. Regulations for the Immunization of School Children.

## PART I. DEFINITIONS.

### § 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

**"Adequate immunization"** means the immunization requirements prescribed under § 3.1.

**"Admit" or "admission"** means the official enrollment or reenrollment for attendance at any grade level, whether full time or part time, of any student by any school.

**"Admitting official"** means the school principal or his designated representative if a public school; if a nonpublic school or child care center, the principal, headmaster or director of the school or center.

**"Board"** means the State Board of Health.

**"Commissioner"** means the State Health Commissioner.

**"Compliance"** means the completion of the immunization requirements prescribed under § 3.1.

**"Conditional enrollment"** means the enrollment of a student for a period of 90 days contingent upon the student having received at least one dose of each of the required vaccines and the student possessing a plan, from a physician or local health department, for completing his immunization requirements within the ensuing 90 days.

**"Documentary proof"** means an appropriately completed copy of Form MCH 213B and the temporary certification form for Haemophilus influenzae type b disease where applicable, Form MCH 213C (Appendix A) or a computer generated facsimile of Form 213C signed by a physician or his designee or an official of a local health department. The MCH 213C SUPPLEMENT (Appendix B) indicating the dates of administration of the required vaccines, shall be acceptable in lieu of recording these dates on Form MCH 213C, as long as the supplement is attached to Form MCH 213C and the remainder of Form MCH 213C has been appropriately completed. For a new student transferring from an out-of-state school, any immunization record, which contains the exact date (month/day/year) of administration of each of the required doses of vaccines when indicated and complies fully with the requirements prescribed under § 3.1 shall be acceptable.

**"Immunization"** means the administration of a product licensed by the FDA to confer protection against one or more specific pathogens.

**"Physician"** means any person licensed to practice medicine in any of the 50 states or the District of Columbia.

**"School"** means:

1. Any public school from kindergarten through grade 12 operated under the authority of any locality within this Commonwealth;
2. Any private or parochial school that offers instruction at any level or grade from kindergarten through grade 12;
3. Any private or parochial nursery school or preschool, or any private or parochial child care center licensed by this Commonwealth; and
4. Any preschool handicapped classes or Head Start classes operated by the school divisions within this Commonwealth.

**"Student"** means any person less than 20 years of age who seeks admission to any Virginia school, or for whom admission to any Virginia school is sought by a parent or guardian.

**"Twelve months of age"** means the 365th day following the date of birth.

## PART II. GENERAL INFORMATION.

**§ 2.1. Authority.**

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~~Section 22.1-271.2 of the Code of Virginia pertains to immunization requirements for attending a school or licensed child care center in the Commonwealth. Section 22.1-271.1 deals with the definitions necessary to implement § 22.1-271.2. Section 22.1-271.2 directs the Board of Health to promulgate regulations for implementing this section in congruence with the board's regulations promulgated under § 32.1-46. Section 32.1-12 of the Code empowers the Board of Health with the authority to adopt regulations. These regulations have been promulgated in cooperation with the State Board of Education.~~

## ~~§ 2.2.~~ 2.1. Purpose.

These regulations are designed to ensure that all students attending any public, private or parochial school and all attendees of licensed child care centers in the Commonwealth, are adequately immunized and protected against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, rubella, mumps, [ and ] haemophilus influenzae type b [ , and hepatitis B ] disease as appropriate for the age of the student.

## ~~§ 2.3.~~ 2.2. Administration.

A. [ ~~State Board of Health.~~ ] The Board of Health has the responsibility for promulgating regulations pertaining to the implementation of the school immunization law and standards of immunization by which a child attending a school or child care center may be judged to be adequately immunized.

B. [ ~~State Health Commissioner.~~ ] The State Health Commissioner is the executive officer for the State Board of Health with the authority of the board when it is not in session, subject to the rules and regulations of the board.

C. [ ~~Local health director.~~ ] The local health director is responsible for providing assistance in implementing these regulations to the school divisions in his jurisdiction and for providing immunizations to children determined not to be adequately immunized, who present themselves to the local health department for immunization.

D. [ ~~Admitting officials.~~ ] The school principals of public schools and the principals, headmasters and directors of nonpublic schools and child care centers shall require each student attending their institutions to provide documentary proof of immunization against the diseases listed in § 3.1.

## ~~§ 2.4.~~ 2.3. Application of regulations.

These regulations have general application throughout the Commonwealth.

## ~~§ 2.5.~~ Effective date of original regulations.

~~July 1, 1983.~~

~~Effective date of amendment No. 1:  
August 13, 1992.~~

## ~~§ 2.6.~~ 2.4. Application of the Administrative Process Act.

The provisions of the Virginia Administrative Process Act, contained in Chapter 1.1:1 (§ 9-6.14:1 *et seq.*) of Title 9 of the Code of Virginia, shall govern the adoption, amendment, modification and revision of these regulations, and the conduct of all proceedings and appeals hereunder.

## ~~§ 2.7.~~ 2.5. Powers and procedures of regulations not exclusive.

The board reserves the right to authorize a procedure for enforcement of these regulations which is not inconsistent with the provisions set forth herein and the provisions of Chapter 2 (§ 32.1-35 *et seq.*) of Title 32.1 of the Code of Virginia.

## ~~§ 2.8.~~ Terminology.

~~The use of terminology in these regulations indicating the male gender shall apply equally to the female gender.~~

### PART III.

### IMMUNIZATION REQUIREMENTS.

## § 3.1. Immunization requirements.

Every new student and every child attending a licensed child care center shall provide documentary proof of adequate immunization with the prescribed number of doses of each of the vaccines and toxoids listed in the following subdivisions, as appropriate for his age. A copy of every student's immunization record shall be on file in his school record.

1. Diphtheria and Tetanus Toxoids and Pertussis Vaccine (DTP). For students less than seven years of age, a minimum of three doses of DTP, with one dose administered after the student's fourth birthday. If any of these three doses must be administered on or after the seventh birthday, Td (adult tetanus toxoid full dose and diphtheria toxoid reduced dose) should be used instead of DTP.

2. Poliomyelitis Vaccine. A minimum of three doses of trivalent oral poliomyelitis vaccine (OPV), with one dose administered after the fourth birthday or three doses of enhanced-potency inactivated poliomyelitis vaccine (IPV), with one dose administered after the fourth birthday when OPV is contraindicated.

3. Measles (Rubeola) Vaccine. For students enrolling in kindergarten or first grade on and after July 1, 1991, one dose of live measles vaccine administered at age 12 months or older, and a second dose administered prior to entering kindergarten or first grade, whichever occurs first. The two doses must be administered at least one month apart. Students entering sixth grade on and after July 1, 1992, shall also have received two doses of live measles vaccine, with the first dose administered at age 12 months or older and the second dose at least one month after the first dose. All other students shall have received at least one dose of live measles vaccine. Any measles immunization received after 1968 should be considered to have been administered using a live virus vaccine.

4. German Measles (Rubella) Vaccine. A minimum of one dose of rubella virus vaccine administered at age 12 months or older.

5. Mumps Vaccine. A minimum of one dose of mumps virus vaccine administered at age 12 months or older. The requirement for mumps vaccine shall not apply to any child admitted for the first time to any grade level, kindergarten through grade 12 of a school prior to August 1, 1981.

6. *Haemophilus Influenzae* Type b (Hib) Vaccine. A complete series of Hib vaccine i.e., up to a maximum of four doses of vaccine as appropriate for the age of the child and the age at which the immunization series was initiated. The number of doses administered shall be in accordance with current recommendations of either the American Academy of Pediatrics or those of the U.S. Public Health Service. Attestation by the physician or his designee on the temporary form documenting immunizations against Hib, that portion of Form MCH 213C pertaining to Hib vaccine, a computer generated facsimile of MCH 213C, or on the MCH 213C SUPPLEMENT as defined in § 1.1 under "documentary proof" shall mean that the child has satisfied the requirements of this section. This section shall not apply to children older than 30 months of age.

The dosage schedule for Hib vaccine varies with the manufacturer. The number of doses of vaccine required is also governed by the age at which immunization is initiated. Hence the reason why the requirements for Hib vaccine are prescribed in a manner different from those for the other vaccines.

7. *Hepatitis B Vaccine*. A minimum of three doses of *hepatitis B* vaccine for all children born on or after January 1, 1994.

## § 3.2. Exemptions from immunization requirements.

A. Religious and medical exemptions. No certificate of immunization shall be required of any student for admission to school if:

1. The student or his parent or guardian submits a Certificate of Religious Exemption (Form CRE 1), to the admitting official of the school to which the student is seeking admission. Form CRE 1 is an affidavit stating that the administration of immunizing agents conflicts with the student's religious tenets or practices. For a student enrolled before July 1, 1983, any document present in the student's permanent school record claiming religious exemption shall be acceptable, or
2. The school has written certification on any of the documents specified under "documentary proof" in § 1.1 from a physician or a local health department that one or more of the required immunizations may be detrimental to the student's health. Such certification of medical exemption shall specify the nature and probable duration of the medical condition or circumstance that contraindicates immunization. For a student enrolled before July 1, 1983, any document attesting to the fact that one or more of the required immunizations may be detrimental to the student's health shall be acceptable.

B. Demonstration of existing immunity. The demonstration in a student of antibodies against either rubeola or rubella in sufficient quantity to ensure protection of that student against that disease, shall render that student exempt from the immunization requirements contained in § 3.1 for the disease in question. Such protection should be demonstrated by means of a serological testing method appropriate for measuring protective antibodies against rubeola or rubella respectively.

## PART IV. PROCEDURES AND RESPONSIBILITIES.

### § 4.1. Responsibilities of admitting officials.

A. Procedures for determining the immunization status of students. Each admitting official or his designee shall review, before the first day of each school year, the school medical record of every new student seeking admission to his school, and that of every student enrolling in grade six for compliance with the measles vaccine requirements prescribed in § 3.1 3. Such review shall determine into which one of the following categories each student falls:

1. Students whose immunizations are adequately documented and complete in conformance with § 3.1.
2. Students who are exempt from the immunization requirements of § 3.1 because of medical contraindications or religious beliefs provided for by § 3.2.
3. Students whose immunizations are inadequate according to the requirements of § 3.1.
4. Students without any documentation of having been adequately immunized.

B. Notification of deficiencies. Upon identification of the students described in categories subdivisions 3 and 4 under of § 4.1 A, the admitting official shall notify the student or his parent or guardian:

1. That there is no, or insufficient, documentary proof of adequate immunization in the student's school records.
2. That the student cannot be admitted to school unless he has documentary proof that he is exempted from immunization requirements pursuant to § 3.1.
3. That the student may be immunized and receive certification by a licensed physician or an official of a local health department.
4. How to contact the local health department to receive the necessary immunizations.

C. Conditional enrollment. Any student whose immunizations are incomplete may be admitted conditionally if that student provides documentary proof at the time of enrollment of having received at least one dose of the required immunizations accompanied by a schedule for completion of the required doses within 90 days, during which time that student shall complete the immunizations required under § 3.1. Appendix-D The following table contains a suggested plan for ensuring the completion of these requirements within the 90 day conditional enrollment period. The admitting official should examine the records of any conditionally enrolled student at regular intervals to ensure that such a student remains on schedule with his plan of completion.



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## A SUGGESTED PLAN FOR ENSURING COMPLIANCE

TIME	ACTION STEP
Day 0	Conditional enrollment period starts. If student has not received first dose(s) of required vaccines, exclude student.
Day 1 to Day 42	Student should have received second dose(s) of required vaccines.
Day 43 to Day 88	Student should have received third dose(s) of required vaccines.
Day 89 and Day 90	Confirm that immunizations are completed; exclude children not in compliance.

D. Exclusion. The admitting official shall, at the end of the conditional enrollment period, exclude any student who is not in compliance with the immunization requirements under § 3.1 and who has not been granted an exemption under § 3.2 until that student provides documentary proof that his immunization schedule has been completed, unless documentary proof, that a medical contraindication developed during the conditional enrollment period, is submitted.

E. Transfer of records. The admitting official of every school shall be responsible for sending a student's immunization records or a copy thereof, along with his permanent academic or scholastic records, to the admitting official of the school to which a student is transferring within 30 days of his transfer to the new school.

F. Report of student immunization status. Each admitting official shall, within 30 days of the beginning of each school year or entrance of a student, or by October 15 of each school year, file with the State Health Department through the health department for his locality, a report summarizing the immunization status of the students in his school. This report shall be filed on Form SIS 1, the Student Immunization Status Report (see Appendix F), and shall contain the number of students admitted to that school with documentary proof of immunization, the number of students who have been admitted with a medical or religious exemption and the number of students who have been conditionally admitted.

§ 4.2. Responsibilities of physicians and local health departments.

A. Documentary proof for students immunized in Virginia. Every physician and local health department providing immunizations to a child shall provide documentary proof, as defined in § 1.1, to the child or his parent or guardian of all immunizations administered.

B. Documentary proof for out-of-state students. For a student transferring from an out-of-state school to a Virginia school, the admitting official may accept as documentary proof any immunization record for that student which contains the exact date (month/day/year) of administration of each of the required doses of vaccines when indicated and which complies fully with the requirements prescribed under § 3.1. Any immunization record which does not contain the month/day/year of administration of each of the required

vaccine doses shall not be accepted by the admitting official as documentary proof of adequate immunization with the exception of immunization against Hib. Such a student's record shall be evaluated by an official of the local health department who shall determine if that student is adequately immunized in accordance with the provisions of § 3.1. Should the local health department determine that such a student is not adequately immunized, that student shall be referred to his private physician or local health department for any required immunizations.

## PART V. PENALTIES.

### § 5.1. Exclusion of students.

Any student who fails to provide documentary proof of immunization in the manner prescribed, within the time periods provided for in these regulations and §§ 22.1-271.1 and 22.1-271.2 of the Code of Virginia, shall be excluded from school attendance by the school's admitting official.

§ 5.2. Exclusion of students unprotected against vaccine-preventable diseases.

In accordance with § 32.1-47 of the Code of Virginia, any student exempted from immunization requirements pursuant to § 3.2 A of these regulations, shall be excluded from school attendance for his own protection until the danger has passed, if the commissioner so orders such exclusion upon the identification of an outbreak, potential epidemic or epidemic of a vaccine-preventable disease in that student's school.

### § 5.3. Responsibility of parent to have a child immunized.

In accordance with § 32.1-46 of the Code of Virginia, "the parent, guardian or person in loco parentis of each child within this Commonwealth shall cause such child to be immunized by vaccine against diphtheria, tetanus, whooping cough and , poliomyelitis, and *hepatitis B* before such child attains the age of one year, against *Haemophilus influenzae* type b before he attains the age of 30 months, and against measles (rubeola), German measles (rubella) and mumps before such child attains the age of two years. All children shall also be required to receive a second dose of measles (rubeola) vaccine in accordance with the regulations of the board. The board's regulations shall require that all children receive a second dose of measles (rubeola) vaccine prior to first entering kindergarten or first grade and that all children who have not yet received a second dose of measles (rubeola) vaccine receive such second dose prior to entering the sixth grade."

### § 5.4. General penalties.

In accordance with § 32.1-27 of the Code of Virginia, "any person willfully violating or refusing, failing or neglecting to comply with any regulation or order of the board or commissioner of any provision of this title shall be guilty of a Class 1 misdemeanor unless a different penalty is specified."

VA.R. Doc. No. R95-420; Filed April 12, 1995, 10:37 a.m.

**PART I**  
**COMMONWEALTH OF VIRGINIA**  
**SCHOOL ENTRANCE PHYSICAL EXAMINATION AND IMMUNIZATION CERTIFICATION**

[illegible]

**PART II**  
**CERTIFICATION OF SCHOOL HEALTH EXAMINATION**  
**PART II TO BE COMPLETED BY A PHYSICIAN**  
*(Answers to be completed by parent/guardian)*

Subject's Name: _____		Age: _____	Weight: _____	Height: _____	Birth Date: _____
Hemoglobin or Hematocrit: _____		Blood Chemistry: _____		Sex: _____	
Most recent Tuberculin Test Date: _____		Sputum: _____		Other: _____	
Miles (wet glass) R20: _____		Reaction: _____		Electrolyte: _____	
Miles (wet glass) R20: _____		L20: _____		Having test performed? Auscultation: _____	
Miles (wet glass) R20: _____		L20: _____		Tuberculosis (if individual) normal: _____	
System Examination		Exam	Ref Exam	Comments About Findings	
General Appearance, Nutrition					
Posture, Gait					
Skin					
Head					
Eyes External					
Eyes Internal					
Ears External & Canal					
Tympanic Membrane					
Nose					
Throat					
Mouth					
Neck					
Heart					
Lungs					
Abdomen					
Genitalia (Female Only)					
Reproductive System					
Neurological					
Other					
End of developmental level					
Behavioral Observation					
Comprehension					
Emotional tone					
Activity level					
Signature of observer (print): _____ Date: _____					
Address: _____ Phone: _____					

## PART IV MINIMUM IMMUNIZATIONS REQUIRED OF NEW STUDENTS BY THE STATE BOARD OF HEALTH FOR SCHOOL ATTENDANCE

For More Information Please Refer to the Code of Virginia 22.1-271.2 Immunization Requirements and Section 3.00 of the Rules and Regulations for the Immunization of School Children.

**DTP:** THREE (3) doses of DTP with one (1) administered after the fourth birthday. If any of these doses must be administered on or after the seventh birthday, ADULT Td vaccine should be used instead of DTP.

**OPV:** THREE (3) doses of trivalent OPV or THREE (3) doses IPV (when OPV is medically contraindicated) with one administered after the fourth birthday.

**MEASLES:** TWO (2) doses of live virus measles (rubella) vaccine, one (1) dose given at 12 months of age or older and a second dose administered prior to entering KINDERGARTEN or first grade, whichever occurs first, effective JULY 1, 1991. Two (2) doses of live measles vaccine shall also be required of students enrolling in grade six (6) in 1992 and thereafter. All other students should have received one (1) dose of live measles vaccine.

**RUBELLA:** ONE (1) dose of rubella vaccine received at 12 months of age or older.

**MUMPS:** ONE (1) dose of mumps vaccine received at 12 months of age or older for students entering school on or after August 1, 1981.

**HEPATITIS B:** For children born on or after January 1, 1994, three (3) doses of Hepatitis B vaccine.

**HAEZOPHILUS INFLUENZAE TYPE B (HIB):** For children through 30 months of age, Hib conjugate vaccine should be administered as recommended by the American Academy of Pediatrics or the U.S. Public Health Service.

**SCHOOL DEFINITION:** a) Any public school from kindergarten through grade 12 operated under the authority of any locality within this Commonwealth; b) Any private or parochial school that offers instruction at any level or grade from kindergarten through grade 12; c) Any private or parochial nursery school or preschool, or any private or parochial child care center licensed by the Commonwealth; and d) Any preschool handicapped classes or Head Start classes operated by the school divisions within the Commonwealth.

If there are questions please call your local health department.

10-1-91 Part IV, 9-1, 10-91

## PART III CERTIFICATION OF IMMUNIZATION Part III to be Completed by a Physician or Health Department Official

Student's Name: \_\_\_\_\_ DOB: \_\_\_\_\_  
Parent/Guardian: \_\_\_\_\_ LD #:

IMMUNIZATIONS	RECORD COMPLETE DATES (month/year) OF VACCINE DOSES ADMINISTERED
Diphtheria/Tetanus/Polio (DTP)	____/____
Diphtheria/Tetanus (DT or Adult Td)	____/____
Polio (OPV or IPV)	____/____
Measles (Rubella)	____/____
Rubella	____/____
Mumps	____/____
Measles, Mumps, Rubella (MMR)	____/____
Hepatitis B Vaccine	____/____
Haezophilus Influenzae Type B (Hib Conjugate)	____/____

Haezophilus Influenzae Type B (Hib Conjugate): PLEASE COMPLETE THE APPROPRIATE SECTION BELOW.

☐ Has received complete series of Hib vaccine as recommended by the AMERICAN ACADEMY OF PEDIATRICS OR THE U.S. PUBLIC HEALTH SERVICE.

☐ Has received the AGE-APPROPRIATE doses of Hib vaccine as recommended by the AMERICAN ACADEMY OF PEDIATRICS OR THE U.S. PUBLIC HEALTH SERVICE, but series will be completed on (RECORD COMPLETE DATE (month/year)):

Series Completion Date: \_\_\_\_/\_\_\_\_

☐ Hib vaccine is not indicated because this child has had Hib disease at 24 months of age or older.

☐ Being over 36 months of age, this child is not required by law to have proof of immunization against Hib.

**MEDICAL EXEMPTION:** DTP: ☐ Td: ☐ OPV: ☐ Hib: ☐ Measles: ☐ Mumps: ☐ Rubella: ☐  
As specified in 22.1-271.2(1) of the Code of Virginia, I certify that administration of the vaccine(s) designated above would be detrimental to this student's health. The vaccine(s) is (are) specifically contraindicated because (please specify): \_\_\_\_\_

This contraindication is permanent ☐ or temporary ☐ and expected to preclude immunization until \_\_\_\_\_  
Signature of PHYSICIAN or HEALTH DEPT. OFFICIAL \_\_\_\_\_ Date: \_\_\_\_\_

**RELIGIOUS EXEMPTION:** The Code of Virginia allows a child an exemption from receiving immunizations required for school attendance if the student or the student's parent/guardian submits an affidavit in the school's administrative office stating that the immunization of the child is contrary to the student's religious beliefs or practices. Any student returning school for the first time after June 1, 1981, must submit this affidavit to the school's administrative office. **CERTIFICATE OF RELIGIOUS EXEMPTION (Form CRE-1)** which must be submitted to the local health department, school division superintendent's office or local department of social services. See Code 22.1-271.2, CODE OF VIRGINIA.  
I certify that this student has received at least one dose of each of the vaccine(s) required by the State Board of Health for attending school and that all students are given the complete series of vaccine(s) required within the age and 90 days (conditional exemption).

Signature of Physician or Health Dept. Official: \_\_\_\_\_ Date (month/year): \_\_\_\_\_  
I certify that this student is ADEQUATELY IMMUNIZED in accordance with the MINIMUM requirements for attending school prescribed by the State Board of Health on the reverse side of this form.

Signature of Physician or Health Dept. Official: \_\_\_\_\_ Date (month/year): \_\_\_\_\_

Date: \_\_\_\_\_  
 Patient #: \_\_\_\_\_  
 S.S. #: \_\_\_\_\_

**IMMUNIZATION RECORD****VIRGINIA DEPARTMENT OF HEALTH**

Name: \_\_\_\_\_ DOB: \_\_\_\_\_

	DATE	DATE	DATE	DATE	
<b>DATE</b>					
Diphtheria/Tetanus/ Pertussis (DTP)	_____	_____	_____	_____	_____
Diphtheria/Tetanus (DT or Adult Td)	_____	_____	_____	_____	_____
Poliomyelitis (OPV or eIPV)	_____	_____	_____	_____	_____
Measles (Rubeola)	_____	_____	_____	_____	_____
Rubella	_____	_____	_____	_____	_____
Mumps	_____	_____	_____	_____	_____
Measles, Mumps, Rubella (MMR)	_____	_____	_____	_____	_____
Hepatitis B Vaccine	_____	_____	_____	_____	_____
Haemophilus Influenza type b (Hib)	_____	_____	_____	_____	_____

Serological Confirmation of Measles Immunity \_\_\_\_\_

Serological Confirmation of Rubella Immunity \_\_\_\_\_

\*Child Entered School Before 08/01/81 \_\_\_\_\_

\* (Mumps vaccine is not required if the child entered school before 08/01/81) \_\_\_\_\_

This is an official replication of the vaccination record for the above patient. Dates of immunizations listed above  
 either dates of vaccinations given or dates recorded with the Virginia Department of Health by the Patient.

Public Health Official  
 MCH 1116 SUPPLEMENT

Date \_\_\_\_\_

## COMMONWEALTH OF VIRGINIA CERTIFICATE OF RELIGIOUS EXEMPTION

Name \_\_\_\_\_ Birth Date \_\_\_\_\_

Student I.D. Number \_\_\_\_\_

The administration of immunizing agents conflicts with the above named student's/my religious tenets or practices. I understand, that in the occurrence of an outbreak, potential epidemic or epidemic of a vaccine-preventable disease in my/my child's school, the State Health Commissioner may order my/my child's exclusion from school, for my/my child's own protection, until the danger has passed.

Signature of parent/guardian/student \_\_\_\_\_ Date \_\_\_\_\_

I hereby affirm that this affidavit was signed in my presence on

this \_\_\_\_\_ day of \_\_\_\_\_

Notary Public Seal

COMMONWEALTH OF VIRGINIA  
STUDENT IMMUNIZATION STATUS REPORT*Please Type or Print All Information!*

FACILITY: \_\_\_\_\_  
 MAILING ADDRESS: \_\_\_\_\_  
 CITY: \_\_\_\_\_ ZIP: \_\_\_\_\_  
 LOCATION: STREET: \_\_\_\_\_  
 COUNTY: \_\_\_\_\_ CITY: \_\_\_\_\_  
 PERSON PREPARING REPORT (PRINT): \_\_\_\_\_ TITLE: \_\_\_\_\_  
 SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_ PHONE: \_\_\_\_\_

## TYPE OF FACILITY REPORTING:

1) Please check one of the following:

PUBLIC SCHOOL ☐ PRIVATE SCHOOL ☐ PAROCHIAL SCHOOL ☐ HEAD START ☐ CHILD CARE CENTER ☐

## INSTRUCTIONS:

- 1) Please complete this report using information in each student's school medical record.
- 2) Please refer to the back section of this form for the MINIMUM IMMUNIZATIONS REQUIRED BY THE CODE OF VIRGINIA.
- 3) ALL SCHOOLS: Please submit to the ADDRESS BELOW by **OCTOBER 15**.

VIRGINIA DEPARTMENT OF HEALTH  
 BUREAU OF IMMUNIZATION  
 1500 E. MAIN ST., SUITE 120  
 RICHMOND, VIRGINIA 23219  
 PHONE # (804) 786-6246

## COMPLETE THE SECTION(S) APPLICABLE TO YOUR FACILITY

Please note in each section, numbers in columns (b) through (f) should add together to equal the total number of students in column (a).

## \*\*SECTION I\*\*

## CHILD CARE CENTERS, HEAD STARTS OR PRESCHOOLS

(a) Number of Students Enrolled	(b) Number Adequately Immunized	(c) Number of Medical Exemptions	(d) Number of Religious Exemptions	(e) Number of Conditionally Enrolled	(f) Number Without Records

## \*\*SECTION II\*\*

## KINDERGARTEN OR FIRST GRADE IF THERE IS NO KINDERGARTEN (PUBLIC, PRIVATE, PAROCHIAL)

(a) Number of Students Enrolled	(b) Number Adequately Immunized	(c) Number of Medical Exemptions	(d) Number of Religious Exemptions	(e) Number Conditionally Enrolled	(f) Number Without Records

(For Minimum Immunization Requirements Refer to Back)

Form SIS-2, Rev. 08/94

MINIMUM IMMUNIZATIONS REQUIRED OF NEW STUDENTS BY THE STATE BOARD OF HEALTH  
FOR SCHOOL ATTENDANCE

For More Information Please Refer to the Code of Virginia 22.1-271.2 Immunization Requirements and Section 3.00 of the Rules and Regulations for the Immunization of School Children.

**DTP:** THREE (3) doses of DTP with one (1) administered after the fourth birthday. If any of these doses must be administered on or after the seventh birthday, ADULT Td vaccine should be used instead of DTP.**OPV:** THREE (3) doses of trivalent OPV or THREE (3) doses eIPV (when OPV is medically contraindicated) with one administered after the fourth birthday.**MEASLES:** TWO (2) doses of live virus measles (rubeola) vaccine, one (1) dose given at 12 months of age or older and a second dose administered prior to entering KINDERGARTEN or first grade, whichever occurs first, effective JULY 1, 1991. Two (2) doses of live measles vaccine shall also be required of students enrolling in grade six (6) in 1992 and thereafter. All other students should have received on (1) dose of live measles vaccine.**RUBELLA:** ONE (1) dose of rubella vaccine received at 12 months of age or older.**MUMPS:** ONE (1) dose of mumps vaccine received at 12 months of age or older for students entering school on or after August 1, 1981.**HEPATITIS B:** For children born on or after January 1, 1994, three (3) doses of hepatitis B vaccine.**HAEMOPHILUS INFLUENZAE TYPE b (Hib):** For children through 30 months of age, Hib conjugate vaccine should be administered as recommended by the American Academy of Pediatrics or the U.S. Public Health Service.**CONDITIONAL ENROLLMENT:** In order for a student to be CONDITIONALLY ENROLLED, the student must have proof of having received at least one (1) dose of each of the required immunizations (DTP, OPV, MEASLES, MUMPS, and RUBELLA) and have a schedule on file to receive the remainder of the required doses within 90 DAYS.**RELIGIOUS EXEMPTIONS:** The student or his parent or guardian submits a CERTIFICATE OF RELIGIOUS EXEMPTION (FORM CRE-1), to the admitting official of the school to which the student is seeking admission. Form CRE-1 is an affidavit stating that the administration of immunizing agents conflicts with the student's religious tenets or practices. The CRE-1 must be signed by a NOTARY PUBLIC AND STAMPED WITH THE NOTARY'S SEAL.**MEDICAL EXEMPTIONS:** The school must have written certification from a physician or a local health department on FORM MCH213C that one or more of the required immunizations may be detrimental to the student's health. Such certification of medical exemption shall specify the nature and probable duration of the medical condition or circumstance that contraindicates immunization.

IF THERE ARE QUESTIONS REGARDING IMMUNIZATIONS PLEASE CALL YOUR LOCAL HEALTH DEPARTMENT OR THE BUREAU OF IMMUNIZATION AT (804) 786-6246.

Form SIS-2, Rev. 08/94

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**Title of Regulation:** VR 355-33-500. Rules and Regulations for the Licensure of Hospitals in Virginia.

**Statutory Authority:** §§ 32.1-12 and 32.1-127 of the Code of Virginia.

**Effective Date:** June 1, 1995.

**Summary:**

*Discharge planning services link patients departing the hospital with appropriate community resources, a service that is especially important for drug-exposed infants and their mothers. Implementation of these regulations strengthen hospital discharge planning for substance abusing postpartum women through the application of uniform requirements for informing substance abusing women of treatment services available in the community. In addition, editorial and stylistic changes have been made to conform with the journalistic style of the Virginia Register.*

**Summary of Public Comment and Agency Response:** A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

**Agency Contact:** Copies of the regulation may be obtained from Nancy Hofheimer, Department of Health, Office of Health Facilities Regulation, 3600 West Broad Street, Suite 216, Richmond, VA 23230, telephone (804) 367-2102 or FAX (804) 367-2149.

VR 355-33-500. Rules and Regulations for the Licensure of Hospitals in Virginia.

## PART I. DEFINITIONS AND GENERAL INFORMATION AND PROCEDURES.

### Article 1. Definitions.

#### § 1.1. Definitions.

As used in these regulations, the words and terms, shall have meanings, respectively set forth unless the context clearly requires a different meaning.

"Board" means the State Board of Health.

[ ~~"Division" means the Division of Medical and Nursing Facilities Services of the Department of Health.~~ ]

"Chief executive officer" means a job descriptive term used to identify the individual appointed by the governing body to act in its behalf in the overall management of the hospital. Job titles may include administrator, superintendent, director, executive director, president, vice-president, and executive vice-president.

"Commissioner" means the State Health Commissioner.

"Consultant" means one who provides services or advice upon request.

"Department" means an organized section of the hospital.

"Direction" means authoritative policy or procedural guidance for the accomplishment of a function or activity.

"Facilities" means building(s), equipment, and supplies necessary for implementation of services by personnel.

"Full-time" means a 37 1/2 to 40 hour work week.

"General hospital" means institutions as defined by § 32.1-123(1) of the Code of Virginia with an organized medical staff; with permanent facilities that include inpatient beds; and with medical services, including physician services, dentist services and continuous nursing services, to provide diagnosis and treatment for patients who have a variety of medical and dental conditions which may require various types of care, such as medical, surgical, and maternity.

"Home health care department/service/program" means a formally structured organizational unit of the hospital which is designed to provide health services to patients in their place of residence and meets Part II of the regulations adopted by the board for the licensure of home health agencies in Virginia.

"Licensing agency" means the State Department of Health. "Medical" means pertaining to, or dealing with the healing art and the science of medicine.

"Nursing care unit" means an organized jurisdiction of nursing service in which nursing services are provided on a continuous basis.

"Nursing home" means an institution or any identifiable component of any institution as defined by § 32.1-123(2) of the Code of Virginia with permanent facilities that include inpatient beds and whose primary function is the provision, on a continuing basis, of nursing and health related services for the treatment of patients who may require various types of long term care, such as skilled care and intermediate care.

"Nursing services" means patient care services pertaining to the curative, palliative, restorative, or preventive aspects of nursing that are prepared or supervised by a registered nurse.

[ ~~"Office" means the Office of Health Facilities Regulation of the Department of Health.~~ ]

"Organized" means administratively and functionally structured.

"Organized medical staff" means a formal organization of physicians and dentists with the delegated responsibility and authority to maintain proper standards of medical care and to plan for continued betterment of that care.

"Outpatient hospital" means institutions as defined by § 32.1-123(1), of the Code of Virginia which primarily provide facilities for the performance of surgical procedures on outpatients. Such patients may require treatment in a medical environment exceeding the normal capability found in a physician's office, but do not require inpatient hospitalization. Outpatient abortion clinics are deemed a category of outpatient hospitals.

"Ownership/person" means any individual, partnership, association, trust, corporation, municipality, county, governmental agency, or any other legal or commercial entity which owns or controls the physical facilities and/or manages or operates a hospital.

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"Service" means a functional division of the hospital. Also used to indicate the delivery of care.

"Special hospital" means institutions, as defined by § 32.1-123(1) of the Code of Virginia which provide care for a specialized group of patients or limit admissions to provide diagnosis and treatment for patients who have specific conditions (e.g., tuberculosis, orthopedic, pediatric, maternity).

"Special care unit" means an appropriately equipped area of the hospital where there is a concentration of physicians, nurses, and others who have special skills and experience to provide optimal medical care for patients assigned to the unit.

"Staff privileges" means authority to render medical care in the granting institution within well-defined limits, based on the individual's professional license and the individual's experience, competence, ability and judgment.

"Unit" means a functional division or facility of the hospital.

## Article 2.

### General Information.

#### § 1.2. Exceptions; variances.

A. In accordance with the § 32.1-124 of the Code of Virginia the provisions of these regulations shall not be applicable to:

1. A dispensary or first aid facility maintained by any commercial or industrial plant, educational institution or convent;
2. An institution licensed by the State Mental Health, Mental Retardation and Substance Abuse Services Board;
3. An institution or portion thereof licensed by the State Board of Social Services;
4. A hospital owned or operated by an agency of the Commonwealth or of the United States government; or
5. An office of one or more physicians or surgeons unless such office is used principally for performing surgery as defined in § 1.1 of these regulations.

B. In accordance with § 32.1-128 of the Code of Virginia nothing in these rules and regulations shall be construed to authorize or require the interference with the supervision, regulation, or treatment of residents, patients, or personnel of any institution operated by and for the adherents of any well-recognized church or denomination who rely upon treatment by mental or spiritual means without the use of any drug or material remedy, provided such institution complies with applicable statutes and regulations on sanitation, life safety and construction design.

#### § 1.3. Allowable variances.

A. Upon the finding that the enforcement of one or more of these regulations would be clearly impractical, the commissioner shall have the authority to waive, either temporarily or permanently, the enforcement of one or more of these regulations, provided safety and patient care and services are not adversely affected.

B. Modification of any individual standard herein, for experimental or demonstrative purposes, or any other

purposes, shall require advance written approval from the licensing agency.

## Article 3.

### Procedures for Licensure or License Renewal.

#### § 1.4. General.

No person, as defined in § 1.1 of these regulations, shall establish, conduct, maintain, or operate in this State any hospital as defined and included within provisions of these regulations without having obtained a license. Any person establishing, conducting, maintaining, or operating a hospital without a license shall be guilty of a Class 6 felony.

#### § 1.5. Classification.

Hospitals to be licensed shall be classified as general hospitals, special hospitals or outpatient hospitals defined by § 1.1 of these regulations.

#### § 1.6. Separate license.

A. A separate license shall be required by hospitals maintained on separate premises even though they are operated under the same management. Separate license is not required for separate buildings on the same grounds or within the same complex of buildings.

B. Hospitals which have separate organized sections; units, or buildings to provide services of a classification covered by provisions of other state statutes or regulations may be required to have an additional applicable license for that type or classification of service (e.g., psychiatric, nursing home, home health services, outpatient surgery, outpatient abortions).

#### § 1.7. Request for issuance.

Hospital licenses shall be issued by the commissioner, but all requests for licensing shall be submitted initially to the [ ~~Division of Medical and Nursing Facilities Services~~ office ]. The procedure for obtaining the license shall include the following steps:

1. Request for application forms shall be made in writing to the [ ~~division office~~ ] ;
2. Application for license or license renewal to establish or maintain a hospital shall be made and submitted to the [ ~~division office~~ ] ;
3. All categories of inpatient beds shall be included on the hospital application for licensure in order for the licensing agency to have an accurate and complete record of the total bed capacity of the facility;
4. Application for initial license, change in license, or license renewal shall be accompanied by a check or money order for the service charge, payable to the licensing agency; and
5. Application for initial license of a hospital or for additions to an existing licensed hospital must be accompanied by evidence of approval from a representative of the State Fire Marshal and a copy of the occupancy permit issued by the local building official.

#### § 1.8. Service charge.

A. In accordance with § 32.1-130 of the Code of Virginia, the following service charge shall be made:

0 to 50 beds - \$75

51 to 333 beds - \$1.50 per bed

334 or more - \$500

B. The hospital shall not be required to pay a service charge on hospital beds in a category which requires separate license by this licensing agency or another state agency (i.e. psychiatric, nursing home).

## § 1.9. License expiration.

Licenses shall expire as specified or at midnight December 31 following date of issue, whichever is first, and shall be renewable annually, upon filing of application and payment of service charge, unless cause appears to the contrary.

## § 1.10. Name.

Every hospital shall be designated by a permanent and appropriate name which shall appear on the application for license. Any change of name shall be reported to the licensing agency within 30 days.

## § 1.11. Bed capacity.

A. Each license issued by the commissioner shall specify the maximum allowable number of beds. The number of beds allowed shall be determined by the [ *division office* ] and shall so appear on the license issued by the licensing agency.

B. Request for licensed bed increase or decrease shall be made in writing to the [ *division office* ]. No increase will be granted without an approved Certificate of Public Need.

## § 1.12. Posting of license.

The hospital license issued by the commissioner shall be framed and posted conspicuously on the premises either in the main entrance to the hospital or in a place visible from that main entrance.

## § 1.13. Return of license.

The licensing agency shall be notified in writing at least within 30 working days in advance of any proposed change in location or ownership of the facility. A license shall not be transferred from one owner to another or from one location to another. The license issued by the commissioner shall be returned to the [ *division office* ] for correction or reissuance when any of the following changes occur during the licensing year:

1. Revocation;
2. Change of location;
3. Change of ownership;
4. Change of name;
5. Change of bed capacity; or
6. Voluntary closure.

## § 1.14. Inspection procedure.

A. The licensing agency may presume that a hospital accredited by the Joint Commission on Accreditation of [ ~~Hospitals~~ *Healthcare Organizations* (JCAHO) ] and certified for participation in Title XVIII of the Social Security Act (Medicare) generally meets the requirements of Part II of these regulations provided the following conditions are met:

1. The hospital provides to the licensing agency, upon request, a copy of the most current accreditation survey findings made by the Joint Commission on Accreditation of [ ~~Hospitals~~ *Healthcare Organizations* ]; and
2. The hospital notifies the licensing agency within 10 days after receipt of any notice of revocation or denial of accreditation by the Joint Commission on Accreditation of [ ~~Hospitals~~ *Healthcare Organizations* ].

B. The licensing agency may presume that a unit or part of a hospital licensed or certified by another state agency, or another section, bureau or division of the licensing agency meets the requirements of Part II of these regulations for that specific unit or part provided the following conditions are met:

1. The hospital provides the licensing agency, upon request, a copy of the most current inspection report made by the other state agency; and
2. The hospital notifies the licensing agency within 10 days after receipt of any notice of revocation or suspension by the other state agency.

C. Notwithstanding any other provision of this regulations to the contrary, if the licensing agency finds, after inspection, violations pertaining to environmental health or life safety, the hospital shall receive a written licensing report of such findings. The hospital shall be required to submit a plan of correction in accordance with provisions of [ ~~subsection N of this section~~ § 1.15 ].

## § 1.15. Plan of correction.

A. Upon receipt of a written licensing report each hospital shall prepare a plan for correcting any licensing violations cited at the time of inspection. The plan of correction shall be to the [ *division office* ] within the specified time limit set forth in the licensing report. The plan of correction shall contain at least the following information:

1. The methods implemented to correct any violations of these regulations; and
2. The date on which such corrections are expected to be completed.

B. The licensing agency shall notify the hospital, in writing, whenever any item in the plan of correction is determined to be unacceptable.

## § 1.16. Revocation of license.

The commissioner may revoke or suspend the license to operate a hospital in accordance with § 32.1-135 of the Code of Virginia for the following reasons:

1. Violation of any provision of these rules and regulations. Violations which in the judgment of the commissioner jeopardize the health or safety of patients



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shall be sufficient cause for immediate revocation or suspension; or

2. Willfully permitting, aiding, or abetting the commission of any illegal act in the hospital.

## PART II.

### ORGANIZATION AND OPERATION OF GENERAL AND SPECIAL HOSPITALS.

#### Article 1.

##### Organization and Management.

###### § 2.1. Ownership.

A. There shall be disclosure of hospital ownership. In the case of corporations, all individuals or entities holding 5.0% or more of the total ownership shall be identified by name and address.

B. When the owner delegates the operation of a hospital to an individual, corporation or other legal entity by management contract or lease agreement, subsection A shall also be applicable to the operator.

###### § 2.2. Governing body.

A. Each hospital shall have an organized governing body or other legal entity responsible for the management and control of the operation. The governing body or other legal entity may be an individual, group, corporation or governmental agency.

B. The governing body shall be responsible for insuring compliance with these rules and regulations.

C. The governing body shall provide facilities, personnel and other resources necessary to meet patient and program needs.

D. The governing body shall adopt and maintain written bylaws, rules and regulations in accordance with legal requirements. A copy of said bylaws, rules and regulations including amendments or revisions thereto, shall be made available to the licensing agency on request.

E. The bylaws, rules and regulations shall include:

1. A statement of purpose;
2. A statement of qualifications for membership and method of selecting members of the governing body;
3. Provisions for the establishment, selection, term of office of committee members and officers;
4. Description of the functions and duties of the governing body, officers, and committees;
5. Specifications for the frequency of meetings, attendance requirements, provision for the order of business and the maintenance of written minutes;
6. A statement of the authority and responsibility delegated to the chief executive officer and to the medical staff;
7. Provision for the selection and appointment of medical staff and the granting of clinical privileges including the provision for current license to practice in Virginia.

8. Provision for the adoption of the medical staff bylaws, rules and regulations;

9. Provision of guidelines for the relationships among the governing body, the chief executive officers, and the medical staff.

10. A policy statement concerning the development and implementation of short and long-range plans in accordance with Part III of these regulations.

11. A policy statement relating to conflict of interest on the part of members of the governing body, medical staff and employees who may influence corporate decisions.

###### § 2.3. Chief executive officer.

A. The chief executive officer shall be directly responsible to the governing body for the management and operation of the hospital and shall provide liaison between the governing body and the medical staff.

B. The chief executive officer, or his designee, shall ensure that families of patients who are potential donors are informed of the option of organ, tissue, and eye donation.

###### § 2.4. Organization.

A. The internal hospital organization shall be structured to include appropriate departments and services consonant with its statement of purpose.

B. Each hospital shall maintain clearly written definitions of its organization, authority, responsibility, and relationships.

C. Each hospital department and service shall maintain:

1. Clearly written definitions of its organization, authority, responsibility, and relationships; and
2. Written policies and procedures including patient care where applicable.

###### § 2.5. Medical staff.

A. Each hospital shall have an organized medical staff responsible to the governing body of the hospital for its own organized governance and all medical care provided to patients.

B. The medical staff shall be responsible to hospital governing board, maintain appropriate standards of professional performance through staff appointment criteria, delineation of staff privileges, continuing peer review and other appropriate mechanisms.

C. The medical staff, subject to approval by the governing body, shall develop bylaws incorporating details of the medical staff organization and governance, giving effect to its general powers, duties, and responsibilities including:

1. Methods of selection, election, or appointment of all officers and other executive committee members and officers;
2. Provisions for the selection and appointment of officers of departments or services specifying required qualifications;

3. The type, purpose, composition and organization of standing committees;

4. Frequency and requirements for attendance at staff and departmental meetings;

5. An appeal mechanism for denial, revocation, or limitation of staff appointments, reappointments and privileges.

6. Delineation of clinical privileges in accordance with the requirements of § 32.1-134.2 of the Code of Virginia.

7. Requirements regarding medical records;

8. A mechanism for utilization and medical care review; and

9. Such other provisions as shall be required by hospital or governmental rules and regulations.

D. A copy of approved medical staff bylaws and regulations and revisions thereto, shall be made available to the licensing agency on request.

## § 2.6. Organ donation.

Each hospital shall develop and implement a routine contact protocol for organ, tissue and eye donation. The protocol shall:

1. Ensure that the family of each patient who is a potential donor is made aware of the option of organ, tissue, and eye donation as well as the option to decline to donate;

2. Encourage discretion and sensitivity with respect to the circumstances, views and beliefs of the family members;

3. Recite provisions of § 32.1-290.1 of the Code of Virginia specifying family members who are authorized to make an anatomical gift of all or part of the decedent's body for an authorized purpose and the order of priority of those family members who may make such gift; and

4. Include written procedures for organ, tissue, and eye donation. The procedures shall include:

a. Training of staff in organ, tissue, or eye donation;

b. A mechanism for informing the next of kin of the organ, tissue, and eye donation option;

c. Procedures to be employed when the hospital, consistent with the authority granted by § 32.1-292.1 of the Code of Virginia, deems it appropriate to conduct a reasonable search for a document of gift or other information identifying the bearer as a donor or as an individual who has refused to make an anatomical gift.

d. Provisions for the procurement and maintenance of donated organs, tissues, and eyes;

e. The name and telephone number of the local organ procurement agency, tissue or eye bank to be notified of potential donors; and

f. Documentation of the donation request in the patient's medical record.

## Article 2. Patient Care Services.

### § 2.7. Patient care management.

A. All patients shall be under the care of a member of the medical staff.

B. Each hospital shall have a plan that includes effective mechanisms for the periodic review and revision of patient care policies and procedures.

C. No medication or treatment shall be given except on the signed order of a person lawfully authorized by state statutes. Emergency telephone and other verbal orders shall be signed within 24 hours.

D. Each hospital shall have a reliable method for identification of each patient, including newborn infants.

### § 2.8. Anesthesia service.

A. Each hospital which provides surgical or obstetrical services shall have an organized anesthesia department/service. The anesthesia department/service shall be directed by a physician member of the medical staff.

B. The anesthesia department/service shall be organized under written policies and procedures regarding staff privileges, the administration of anesthetics, the maintenance of safety controls and qualifications, and supervision of anesthetists and trainees.

C. Policies shall include provisions in addition to the above, for at least:

1. Pre-anesthesia evaluation by a medical staff member;

2. Safety of the patient during the anesthesia period;

3. Review of patient's condition prior to induction of anesthesia and post anesthetic evaluation; and

4. Recording of all events related to each phase of anesthesia care.

### § 2.9. Sterile supply service.

A. Each hospital shall operate a sterile supply service or provide for the processing, sterilizing, storing, and dispensing of clean and sterile supplies and equipment.

B. Facilities shall be provided for the cleaning, preparation, sterilizing, aeration, storage and dispensing of supplies and equipment for patient care.

C. Areas for the processing of clean and soiled supplies and equipment shall be separated by physical barriers.

D. Written procedures shall be established subject to the approval of the Infection Control Committee for all sterile supply service functions including:

1. Procedures for all sterilizing and for the disposal of wastes and contaminated supplies; and

2. Procedures for the safety of personnel and patients.

### § 2.10. Dietary service.

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A. Each hospital shall maintain a dietary service directed by a full-time person, qualified by training and experience in organization and administration of food service.

B. Each hospital shall have at least one dietitian employed on either a full-time, part-time or on a consultative basis, to direct nutritional aspects of patient care and to advise on food preparation and service. The dietitian shall be:

1. A professional dietitian who meets the American Dietetic Association qualification standards; or
2. An individual who is a graduate of an accredited college or university with a baccalaureate degree program with major studies in food and nutrition and at least two years of experience in a health care food or nutrition service.

C. Space, equipment and supplies shall be provided for the efficient, safe and sanitary receiving, storage, refrigeration, preparation and serving of food.

D. The hospital food service operation shall comply with applicable standards in Appendix A, Reference 1.

E. Policies and procedures shall be established for dietary services, including but not limited to the following:

1. Responsibilities and functions of personnel;
2. Standards for nutritional care in accordance with Appendix A, Reference 2;
3. Safety and sanitation relative to personnel and equipment;
4. Precise delivery of patient's dietary order;
5. Alterations or modifications to diet orders or schedules;
6. Ancillary dietary services, including food storage and preparation in satellite kitchens, and vending operations;
7. Food purchasing, storage, preparation and service; and
8. Ice making in accordance with Appendix A, Reference 1.

F. A diet manual, approved by the medical staff shall be maintained by the dietary service. Diets served to patients shall comply with the principles set forth in the diet manual.

G. All patient diets shall be ordered in writing by a member of the medical staff.

H. Pertinent observations and information relative to the special diets and to dietetic treatment shall be recorded in the patient's medical record. A hospital contracting for food service shall require, as part of the contract, that the contractor comply with the provisions of [ ~~§ 2.10 of these regulations~~ *this section* ].

## § 2.11. Disaster and mass casualty programs.

A. Each hospital shall develop and maintain a written disaster plan which shall include provisions for complete evacuation of the facility and care of mass casualties in accordance with Appendix A, Reference 10.

B. The plan shall provide for widespread disasters as well as for disaster occurring within the local community and hospital facility.

C. The disaster plan shall be rehearsed at least twice a year preferably as part of a coordinated drill in which other community emergency service agencies participate. Written reports and evaluation of all drills shall be maintained for at least two years.

D. A copy of the plan and any revision thereto shall be made available to the licensing agency upon request.

## § 2.12. Emergency service.

A. Hospitals with an emergency department/service shall have 24-hour staff coverage and shall have at least one physician on call at all times. Hospitals without emergency service shall have written policies governing the handling of emergencies.

B. No less than one registered nurse shall be assigned to the emergency service on each shift. Such assignment need not be exclusive of other duties, but must have priority over all other assignments.

C. Those hospitals which make provisions for Mobile Intensive Care manned by technical personnel shall comply with the requirements of Appendix A, Reference 3.

D. The hospital shall provide equipment, drugs, supplies, and ancillary services commensurate with the scope of anticipated needs, including radiology and laboratory services and facilities for handling and administering of blood and blood products. Emergency drugs and equipment shall remain accessible in the emergency department at all times.

E. Current roster of medical staff members on emergency call, including alternates and medical specialists or consultants shall be posted in the emergency department.

F. Hospitals shall make special training available, as required, for emergency department personnel.

G. Toxicology reference material and poison antidote information shall be available along with telephone numbers of the nearest poison control centers.

## § 2.13. Laboratory service; general.

A. The director of laboratory service shall be a physician member of the medical staff. If the physician director of laboratory service is not a pathologist, a pathologist shall be retained on a consultant basis. When the pathologist provides services only on a consultative basis, these services shall be provided at least on a monthly basis. A written evaluation report with recommendations to the medical staff and administration shall be provided by the consultant pathologist on a monthly basis.

B. Laboratories shall have adequate space, equipment, and supplies, and shall be operated in accordance with Appendix A, Reference 4.

C. Provisions shall be made to assure continuous availability of emergency laboratory services.

## § 2.14. Clinical laboratory services.

Examination in the fields of hematology, chemistry, microbiology, seroimmunology, clinical microscopy and other services necessary to meet patient care needs shall be provided directly or shall be provided through a contractual arrangement with a reference laboratory.

## § 2.15. Tissue pathology.

A. Tissue pathology services shall be provided either by the hospital or pursuant to contractual arrangements with a laboratory. In the latter instance, written policies and procedures shall be established governing prompt transportation of specimens and submission of reports.

B. In accordance with medical staff bylaws, surgically removed tissues shall be examined by a pathologist and findings shall be included in the patient's medical record.

## § 2.16. Quality control.

There shall be a quality control program designed to ensure reliability of the laboratory data and shall include provisions for no less than:

1. Frequency and method of work performance evaluation;
2. Frequency and method of performance testing of instruments and equipment;
3. A preventive and corrective maintenance program;
4. Participation in appropriate external proficiency testing programs for the services provided.
5. Maintenance for at least two years of records documenting quality control activities.

## § 2.17. Autopsy service.

An autopsy service shall be provided either directly by the hospital or written contractual agreement [ by ] with another institution.

## § 2.18. Blood banks and transfusion services.

A. If the hospital provides facilities for the procurement, extraction and collection of blood and blood products, written policies and procedures for all phases of operation of blood banks and transfusion services shall be established and periodically revised to comply with standards of Appendix A, Reference 5.

B. Each hospital shall provide appropriate facilities and equipment for the storage and administration of whole blood and blood products.

C. For emergency situations, the hospital shall:

1. Make arrangements by which blood can be quickly obtained from community blood sources, or [ 2. ] maintain an up-to-date list of available donors, as well as provide the equipment and personnel and obtain blood from the donor.

[ 3. 2. ] Maintain a minimum supply of O negative blood, if the hospital provides obstetrical services.

## § 2.19. Isolation of special microorganisms.

When a hospital diagnostic laboratory isolates from clinical, pathological or environmental specimens, any one of the special micro-organisms listed in Appendix A, Reference 12, the original culture or a subculture shall be submitted to the State Laboratory for confirmation and further specific identification, accompanied by data identifying the patient and attending physician.

## § 2.20. Nuclear medicine.

Every hospital which maintains a nuclear medicine service within the institution or through contractual arrangements shall ensure that it is under the medical supervision of a physician who meets the educational and experience qualifications required by the medical staff bylaws.

1. There shall be quality control procedures governing nuclear medicine services to ensure diagnostic reliability and therapeutic effectiveness.
2. Records of diagnostic or therapeutic services shall be incorporated in the patient's medical record.

## § 2.21. Medical records.

A. The medical record department shall be staffed and equipped to facilitate the accurate processing, checking, indexing, filing and retrieval of all medical records.

B. A medical record shall be established and maintained for every person treated on an inpatient, outpatient (ambulatory) or emergency basis, in any unit of the hospital. The record shall be available to all other units.

A separate medical record shall be maintained for each newborn infant. Entered on the chart of the newborn shall be notes of gestational history, including any pathology and information regarding complications of delivery and mother's medication during labor and delivery.

C. Written policies and procedures shall be established regarding content and completion of medical records.

D. Entries in the medical record shall be made by the responsible person in accordance with hospital policies and procedures.

E. The content of all medical records (inpatient, outpatient, ambulatory, and emergency) shall conform with applicable standards of Appendix A, Reference 6.

F. Medical records shall be kept confidential and:

1. Only authorized personnel shall have access to the records;
2. The hospital shall release copies of a patient's medical record only with the written consent of:
  - a. The patient; or
  - b. The legal representative; or
  - c. If a minor, parent, guardian, or legal representative; or
  - d. Duly authorized state or federal health authorities or others as specifically authorized by the Code of Virginia or federal statutes.

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3. The hospital's permanent records may be removed from the hospital's jurisdiction only in accordance with a court order, subpoena or statute.

G. Provisions shall be made for the safe storage of medical records or accurate and legible reproductions thereof in accordance with Appendix A, Reference 7.

H. All medical records either original or accurate reproductions shall be preserved for a minimum of five years following discharge of the patient.

1. Records of minors shall be kept for at least five years after such minor has reached the age of 18 years.

2. Birth and death information shall be retained for 10 years in accordance with § 32.1-274 of the Code of Virginia.

## § 2.22. Nursing service.

A. Each hospital shall have an organized nursing department. A registered nurse qualified on the basis of education, experience and clinical ability shall be responsible for the direction of nursing care provided the patients.

B. The number and type of nursing personnel on all shifts shall be based upon the needs of the patients and the capabilities of the nursing staff assigned to the patient care unit. All registered nurses and licensed practical nurses shall be currently registered or licensed by the Virginia Board of [Nurses Nursing].

C. Nursing personnel shall be assigned to patient care units in a manner that minimizes the risk of cross infection and accidental contamination.

## § 2.23. Pharmaceutical service.

A. Each hospital shall provide pharmaceutical services under the direction of a pharmacist licensed in Virginia in accordance with the regulations of the Virginia Board of Pharmacy. There shall be evidence of a current pharmacy license in compliance with the standards of Appendix A, Reference 9.

B. A program for the control of all drugs throughout the hospital shall be established under the supervision of the director of pharmaceutical services and shall contain policies and procedures pertaining to no less than the following:

1. The authority, responsibilities and duties of the director of pharmaceutical services;
2. Compliance with federal and state laws for the storage, dispensing, administration and disposal of all drugs;
3. The selection, distribution, administration, and storage of drugs;
4. Maintenance of records of all transactions; and
5. Inspection of all drug storage and medication areas and documented evidence of findings.

C. In addition to the above, the medical staff in cooperation with the pharmacist and other disciplines shall develop policies and procedures relating to:

1. An approved drug list or formulary and exceptions thereto;
2. Emergency access to drugs in the pharmacist's absence;
3. Control of patient medication from any source; and
4. Monitoring program to identify adverse drug reactions.

## § 2.24. Radiology service.

A. Each hospital shall maintain radiology services which are under the medical supervision of a physician who meets the qualifications of the medical staff bylaws.

B. Hospitals maintaining radiotherapy services shall provide for their safe and effective operation under a director qualified by training and experience in therapeutic radiology.

C. Sufficient technical personnel shall be available, consistent with the scope of services provided.

D. Space and equipment shall be provided for radiographic and fluoroscopic X-ray services including facilities for processing and storage of radiographic films and records.

E. Reports of radiological interpretations, consultations and therapy shall be part of the patient's medical record.

F. Reports shall be preserved in accordance with § 2.21 H of these regulations.

## § 2.25. Social service.

A. Every hospital shall have a plan for the provision of social services to the patient and the patient's family.

B. An employee of the hospital with knowledge of community agencies and other social service resources shall be designated to assume responsibility for said service.

C. Appropriate records shall be maintained.

## § 2.26. Surgical service.

A. The surgical department/service shall have a defined organization and shall be governed by written policies and procedures.

B. The surgical department/service shall be under the medical supervision of a physician who meets the requirements of the medical staff bylaws.

C. The operating suite shall be:

1. Under the supervision of a registered professional nurse.
2. Designed to include operating and recovery rooms, proper scrubbing, sterilizing and dressing room facilities, storage for anesthetic agents and shall be equipped as required by the scope and complexity of the services.
3. Provided with prominently posted safety policies and procedures.

D. A roster of current surgical privileges of every surgical staff member shall be maintained on file in the operating suite.

E. An operating room register shall be maintained which shall include as a minimum:

1. Patient's name and hospital number;
2. Pre- and post-operative diagnosis;
3. Complications, if any;
4. Name of surgeon, first assistant, anesthesiologist or anesthetist, scrub nurse and circulating nurse;
5. Operation performed; and
6. Type of anesthesia.

F. Policies and procedures governing infection control and reporting techniques shall be established in accordance with § 2.31 of these regulations.

G. The patient's medical chart shall be available in the surgical suite at time of surgery and shall contain no less than the following information:

1. A medical history and physical examination;
2. Evidence of appropriate informed consent; and

[ e. 3. ] A pre-operative diagnosis.

H. An accurate and complete description of operative procedure shall be recorded by the operating surgeon within 48 hours following completion of surgery and made part of the patient's clinical record.

## Article 3. Special Services.

### § 2.27. Applicability.

If a hospital provides any of the services in this article, the requirements of the specific service shall apply.

### § 2.28. Obstetric and newborn services.

A. Hospitals with licensed obstetric and newborn services in operation prior to the effective date of these regulations or revisions to thereof shall comply with all of the requirements of this section within 12 months of the effective date of these regulations, with the exception of specified sections of subdivision C 5 of this section. Hospitals that establish and organize obstetric and newborn services after the effective date of these regulations shall comply with all requirements of this section before licensure approval is granted.

B. A hospital with organized obstetric and newborn services shall comply with the following general requirements:

1. Administrative management. The governing body of the hospital or the chief executive officer shall appoint an administrative manager for the obstetric and newborn services. The administrative manager may serve as an administrator of another hospital service but must be available to the obstetric and newborn services. The chief executive officer shall designate, in writing, an individual to act in the administrative manager's behalf during a temporary absence of the administrative manager.
2. Services plan. The hospital is responsible for the development, periodic review and revision of a service management plan. The plan must include provisions to assure that the hospital complies with all state and federal regulations and guidelines applicable to obstetric and

neonatal care as well as the policies and procedures for obstetric and newborn care adopted by the hospital's governing body and medical staff. The plan is to be developed and maintained as follows:

a. The plan shall be developed in cooperation with the medical directors and nursing staffs assigned to each of the services.

b. The plan shall include the protocol, required by § 32.1-127 of the Code of Virginia, for the admission or transfer of any pregnant woman who presents in labor.

c. The plan shall be the responsibility of the administrative manager who is to assure that the plan is developed, that it complies with state and federal requirements and the hospital's policies and procedures, and that it is periodically reviewed and revised.

d. A copy of the plan shall be readily available at each nursing station within the obstetric and newborn services for staff reference.

e. A copy of the plan shall be made available, upon request, to the hospital state licensing inspector for review.

3. Support services. The hospital shall provide the following services in support of the obstetric and newborn services units:

a. Clinical laboratory services and blood bank services shall be available in the hospital on a 24-hour basis. Laboratory and blood bank personnel shall be available on-site or on-call on a 24-hour basis. The blood bank shall have group O Rh negative blood available at all times and be able to provide correctly matched blood in 45 minutes from request. The hospital's laboratory and blood bank personnel must be capable of performing the following tests with less than 1.0 ml of blood within one hour of request or less if specified:

- (1) Blood group and Rh type determination/cross matching
- (2) Arterial blood gases within 20 minutes
- (3) Blood glucose within 20 minutes
- (4) Complete Blood Count
- (5) Total protein
- (6) Total bilirubin
- (7) Direct Coombs test
- (8) Electrolytes
- (9) Blood Urea Nitrogen
- (10) Clotting profile (may require more than one cc of blood)

b. Portable radiological services for basic radiologic studies in each labor room, delivery room, and nursery shall be available on call on a 24-hour basis.

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c. In addition to the requirements specified in § 2.8 of these regulations, anesthesia service personnel shall be available on-site or on-call to begin anesthesia within 30 minutes of notification.

## C. Obstetric service requirements are as follows:

### 1. Medical direction.

a. The governing body shall appoint a physician as medical director of the organized obstetric service who meets the qualifications specified in the medical staff bylaws.

b. If the medical director is not a board certified obstetrician or board eligible in obstetrics, the hospital shall have a written agreement with one or more board-certified or board-eligible obstetricians to provide consultation on a 24-hour basis. Consultation may be by telephone.

c. The duties and responsibilities of the medical director of obstetric services shall include but not be limited to:

- (1) The general supervision of the quality of care provided patients admitted to the service;
- (2) The establishment of criteria for admission to the service;
- (3) The adherence to standards of professional practices and policies and procedures adopted by the medical staff and governing body;
- (4) The development of recommendations to the medical staff on standards of professional practice and staff privileges;
- (5) The identification of clinical conditions and medical or surgical procedures that require physician consultation;
- (6) Arranging conferences, at least quarterly, to review obstetrical surgical procedures, complications and infant and maternal mortality and morbidity. Infant mortality and morbidity shall be discussed jointly between the obstetric and newborn service staffs.

### 2. Physician consultation and coverage.

a. A physician with obstetrical privileges capable of arriving on-site within 30 minutes of notification shall be on a 24-hour on-call duty roster.

b. A physician with obstetrical privileges shall be accessible for patient treatment within 10 minutes during the administration of an oxytocic agent to an antepartum patient.

c. A physician or a certified nurse-midwife, under the supervision of a physician with obstetrical privileges, shall be in attendance for each delivery. Physician supervision of the nurse-midwife shall be in compliance with the regulations of the Boards of Nursing and Medicine.

d. A physician shall be in attendance during all high-risk deliveries. High-risk deliveries shall be defined by the obstetric service medical staff.

e. A physician or a nurse skilled in neonatal cardiopulmonary resuscitation (CPR) shall be available in the hospital at all times.

f. A current roster of physicians, with a delineation of their obstetrical, newborn, pediatric, medical and surgical staff privileges, shall be posted at each nurses' station in the obstetric suite and in the emergency room.

g. A copy of the 24-hour on-call duty schedule, including the list of on-call consulting physicians, shall be posted at each nurses' station in the obstetric suite and in the emergency room.

### 3. Nursing staff and coverage.

a. An occupied unit of the obstetrics service shall be supervised by a registered nurse 24 hours a day.

b. If the postpartum unit is organized as a separate nursing unit, staffing shall be based on a formula of one nursing personnel for every six to eight obstetric patients. Staffing shall include at least one registered nurse for the unit for each duty shift.

c. If the postpartum and general care newborn units are organized as combined rooming-in or modified rooming-in units, staffing shall be based on a formula of one nursing personnel for every four mother-baby units. The rooming-in units shall be staffed at all times with no less than two nursing personnel each shift. At least one of the two nursing personnel on each shift shall be a registered nurse.

d. A registered nurse shall be in attendance at all deliveries. The nurse shall be available on-site to monitor the mother's general condition and that of the fetus during labor, at least one hour after delivery, and longer if complications occur.

e. Nurse staffing of the labor and delivery unit shall be scheduled to ensure that the total number of nursing personnel available on each shift is equal to one half of the average number of deliveries in the hospital during a 24-hour period.

f. At least one of the personnel assigned to each shift on the obstetrics unit shall be a registered nurse. At no time when the unit is occupied shall the nursing staff on any shift be less than two staff members.

g. Patients placed under analgesia or anesthesia during labor or delivery shall be under continuous observation by a registered nurse or a licensed practical nurse for at least one hour after delivery.

h. To ensure adequate nursing staff for labor, delivery, and postpartum units during busy or crisis periods, duty schedules shall be developed in accordance with the following nurse/patient ratios:

- (1) 1:1 to 2 Antepartum testing

- (2) 1:2 Laboring patients
- (3) 1:1 Patients in second stage of labor
- (4) 1:1 Ill patients with complications
- (5) 1:2 Oxytocin induction or augmentation of labor
- (6) 1:2 Coverage of epidural anesthesia
- (7) 1:1 Circulation for cesarean delivery
- (8) 1:6 to 8 Antepartum/postpartum patients without complications
- (9) 1:2 Postoperative recovery
- (10) 1:3 Patients with complications, but in stable condition
- (11) 1:4 Mother-newborn care

i. Student nurses, licensed practical nurses and nursing aides who assist in the nursing care of obstetric patients shall be under the supervision of a registered nurse.

j. At least one registered nurse trained in obstetric and neonatal care shall be assigned to the care of mothers and infants at all times.

k. At least one member of the nursing staff on each shift who is skilled in cardiopulmonary resuscitation of the newborn must be immediately available to the delivery suite.

l. All nursing personnel assigned to the obstetric service shall have orientation to the obstetrical unit.

## 4. Policies and procedures.

a. General policies and procedures. The governing body shall adopt written policies and procedures for the management of obstetric patients approved by the medical and nursing staff assigned to the service. The policies and procedures shall include, but not be limited to, the following:

- (1) Criteria for the identification and referral of high-risk obstetric patients;
- (2) The types of birthing alternatives, if offered, by the hospital;
- (3) The monitoring of patients during antepartum, labor, delivery, recovery and postpartum periods with or without the use of electronic equipment;
- (4) The use of equipment and personnel required for high-risk deliveries, including multiple births;
- (5) The presence of family members or chosen companions during labor, delivery, recovery, and postpartum periods;
- (6) The reporting, to the Department of Health, of all congenital defects;
- (7) The care of patients during labor and delivery to include the administration of Rh O(D) immunoglobulin to Rh negative mothers who have met eligibility

criteria. Administration of Rh O(D) immunoglobulin shall be documented in the patient's medical record;

(8) The provision of family planning information, to each obstetric patient at time of discharge, in accordance with § 32.1-134 of the Code of Virginia;

(9) The use of specially trained paramedical and nursing personnel by the obstetrics and newborn service units;

(10) A protocol for hospital personnel to use to assist them in obtaining public health, nutrition, genetic and social services for patients who need those services;

(11) The use of anesthesia with obstetric patients;

(12) The use of radiological and electronic services, including safety precautions, for obstetric patients;

(13) The management of mothers who utilize breast milk with their newborns. Breast milk shall be collected in sterile containers, dated, stored under refrigeration and consumed or disposed of within 24 hours of collection if the breast milk has not been frozen. This policy pertains to breast milk collected while in the hospital or at home for hospital use;

(14) Staff capability to perform cesarean sections within 30 minutes of notice;

(15) Emergency resuscitation procedures for mothers and infants;

(16) The treatment of volume shock in mothers;

(17) *Training of hospital staff in discharge planning for identified substance abusing, postpartum women and their infants;*

(18) *Written discharge planning for identified substance abusing, postpartum women and their infants. The discharge plans shall include appropriate referral sources available in the community or locality for mother and infant such as:*

(a) *Substance abuse treatment services; and*

(b) *Comprehensive early intervention services for infants and toddlers with disabilities and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 USC § 1471 et seq.*

*The discharge planning process shall be coordinated by a health care professional and shall include, to the extent possible:*

(a) *The father of the infant; and*

(b) *Any family members who may participate in the follow-up care of the mother or infant.*

*The discharge plan shall be discussed with the mother and documented in the medical record.*



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b. Policies and procedures for the use of the labor, delivery and recovery rooms/labor, delivery, recovery and postpartum rooms. The obstetric service shall adopt written policies and procedures for the use of the labor, delivery and recovery rooms (LDR)/Labor, delivery, recovery and postpartum rooms (LDRP) that include, but are not limited to the following:

- (1) The philosophy, goals and objectives for the use of the LDR/LDRP rooms;
- (2) Criteria for patient eligibility to use the LDR/LDRP rooms;
- (3) Identification of high-risk conditions which disqualify patients from use of the LDR/LDRP rooms;
- (4) Patient care in LDR/LDRP rooms, including but not limited to, the following:
  - (a) Defining vital signs, the intervals at which they shall be taken, and requirements for documentation; and
  - (b) Observing, monitoring, and assessing the patient by a registered nurse, certified nurse midwife, or physician;
- (5) The types of analgesia and anesthesia to be used in LDR/LDRP rooms;
- (6) Specifications of conditions of labor or delivery requiring transfer of the patient from LDR/LDRP rooms to the delivery room;
- (7) Specification of conditions requiring the transfer of the mother to the postpartum unit or the newborn to the nursery;
- (8) Criteria for early or routine discharge of the mother and newborn;
- (9) The completion of medical records;
- (10) The presence of family members or chosen companions in the delivery room or operating room in the event that the patient is transferred to the delivery room or operating room;
- (11) The number of visitors allowed in the LDR/LDRP room, and their relationship to the mother;
- (12) Infection control, including, but not limited to, gowning and attire to be worn by persons in the LDR/LDRP room, upon leaving it, and upon returning.

5. Obstetric service design criteria. In addition to complying with Article 5 of this part, a hospital shall comply with the following requirements of this section for the physical design of obstetric service facilities. Existing hospitals with licensed obstetric and newborn services in operation prior to the effective date of the regulations or revisions thereof, shall comply with all of the regulations of this section with the exception of the minimum dimension and square footage requirements for labor rooms and LDR/LDRP rooms provided for in subdivisions e, f, and i of this subdivision. Existing hospitals with an obstetric service may not decrease the dimensions of the labor rooms and the LDR/LDRP rooms from what was granted

approval at the time the service was licensed. Labor rooms and LDR/LDRP rooms that are renovated or constructed after the effective date of these regulations shall conform with all of the room dimensions specified in this section of the regulations.

a. The space and arrangement of a hospital building or a section of the hospital designated as the obstetric unit (antepartum and postpartum) shall be designed to assure the separation of obstetric patients from other patients with the exception of clean gynecological patients. Clean gynecological patients shall be defined in approved written hospital policy.

b. The hospital shall identify specific rooms and beds as obstetric rooms and beds. Adjacent rooms and beds may be used for clean gynecological cases.

c. Labor, delivery, recovery and labor, delivery, recovery and postpartum rooms shall be physically separate from emergency and operating rooms.

d. The obstetric nursing unit shall meet the requirements of § 3.11 A of these regulations, except for the following:

- (1) A handwashing lavatory must be provided in each patient room;
- (2) The soiled workroom and janitors' closet in the obstetric nursing unit shall only be shared with the newborn services unit;
- (3) All bathing facilities shall be showers or tub units with showers.

e. Labor rooms shall be single-bed or two bed rooms with a minimum clear area of 180 square feet for each bed.

f. In hospitals having only one delivery room, two labor rooms shall be provided. One labor room shall be large enough to function as an emergency delivery room with a minimum of 300 square feet (27.87 sq m). Each room shall have at least two oxygen and two wall-mount suction outlets. Hospitals must equip a labor room with the same equipment as a delivery room if it is to be used as a delivery room. Each labor room shall contain a handwashing lavatory. Each labor room shall have access to a toilet room. One toilet room may serve two labor rooms. At least one shower shall be provided for labor room patients. A water closet shall be accessible to the shower without patients having to enter a corridor or general area.

g. The delivery room shall have a minimum clear area of 300 square feet (27.87 sq m) exclusive of fixed and movable cabinets and shelves. The minimum dimensions shall be 16'0" (4.88 m) in any direction between two walls. Separate resuscitation facilities (electrical outlets, oxygen, suction, and compressed air) shall be provided for newborn infants.

h. The recovery room shall contain a minimum of two beds, charting facilities located to permit staff to have visual control of all beds, facilities for medicine dispensing, handwashing facilities, a clinical sink with a

bedpan flushing device, and storage for supplies and equipment.

i. Hospitals that include birthing LDR/LDRP rooms in their obstetrical program shall designate room(s) within the labor suite for this purpose. Birthing LDR/LDRP rooms shall be designed to prohibit unrelated traffic through the labor and delivery suite and to be readily accessible to delivery rooms and operating rooms. Birthing LDR/LDRP rooms shall meet the requirements of labor rooms which may be used as emergency delivery rooms as specified in § 3.19 D of these regulations. The minimum dimensions shall be 16'0" (4.88 m) clear between walls or fixed cabinets or shelving and shall have a clear area of 300 square feet (27.87 sq m). Each LDR/LDRP room shall have a private water closet, shower, and handwashing lavatory.

j. When specified in this subsection, service areas shall be located in individual rooms. Alcoves or other open spaces that do not interfere with traffic may be used unless individual rooms are specified. Service areas, except the soiled workroom and the janitors' closet, may be shared within the obstetrical unit. If shared, service areas shall be arranged to avoid direct traffic between the delivery and operating rooms. The following service areas shall be provided:

- (1) A control station that is located to permit visual surveillance of all traffic that enters the labor and delivery suite;
- (2) A supervisor's office or station;
- (3) Sterilizing facilities with high speed autoclaves conveniently located to serve all delivery rooms. If provisions have been made for the replacement of sterile instruments during a delivery, sterilizing facilities will not be required;
- (4) A drug distribution station equipped for storage, preparation, and dispensing of medication;
- (5) At least two scrub stations located near the entrance to each delivery room. Two scrub stations may serve two delivery rooms if the stations are located adjacent to the entrance to each delivery room. Scrub facilities shall be arranged to minimize any incidental splatter on nearby personnel or supply carts;
- (6) A soiled workroom for the exclusive use of the labor and delivery room personnel. The workroom shall contain a clinical sink or equivalent flushing type fixture, a work counter, a handwashing lavatory, a waste receptacle and a linen receptacle;
- (7) Fluid waste disposal facilities conveniently located to the delivery rooms. A clinical sink or equivalent equipment in a soiled workroom or soiled holding room may meet this requirement;
- (8) A clean workroom that contains a work counter, handwashing lavatory, and space for clean and sterile supplies;

(9) Anesthesia storage facilities. Unless official hospital board action, in writing, prohibits use of flammable anesthetics, a separate room shall be provided for storage of flammable gases in accordance with the requirements detailed in NFPA 99 and NFPA 70;

(10) An anesthesia workroom for cleaning, testing, and storing anesthesia equipment. The workroom shall contain a work counter and sink;

(11) A space for reserve storage of nitrous oxide and oxygen cylinders;

(12) Equipment storage rooms for equipment and supplies used in the labor and delivery suite;

(13) Staff's clothing change areas. Clothing change areas shall be provided for personnel working within the labor and delivery suite. The areas shall contain lockers, showers, toilets, handwashing lavatories, and space for donning scrub suits and boots;

(14) Lounge and toilet facilities for obstetrical staff. A nurses' toilet room shall be provided near the labor rooms and recovery room(s);

(15) A janitors' closet. A closet containing a floor receptor or service sink and storage for housekeeping supplies and equipment shall be provided for the labor and delivery suite to be shared only with the newborn services unit;

(16) A stretcher storage area. This area shall be out of direct line of traffic.

## 6. Equipment requirements.

a. Delivery rooms, LDR/LDRP rooms, and nurseries shall be equipped to provide emergency resuscitation for mothers and infants.

b. Equipment and supplies shall be assigned for exclusive use in the obstetric and newborn units.

c. The same equipment and supplies required for the labor room and delivery room shall be available for use in the LDR/LDRP rooms during periods of labor, delivery, and recovery.

d. Sterilizing equipment shall be available in the obstetric unit or in a central sterilizing department. Flash sterilizing equipment or sterile supplies and instruments shall be provided in the obstetric unit.

e. Daily monitoring is required of the stock of necessary equipment in the labor, delivery, and recovery rooms (LDR) and labor, delivery, recovery and postpartum (LDRP) rooms and nursery.

f. The hospital shall provide the following equipment in the labor, delivery and recovery rooms and, except where noted, in the LDR/LDRP rooms:

### (1) Labor rooms.

- (a) A labor or birthing bed with adjustable side rails
- (b) Adjustable lighting adequate for the examination of patients

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- (c) An emergency signal and intercommunication system
  - (d) A sphygmomanometer, stethoscope and fetoscope or doppler
  - (e) Fetal monitoring equipment with internal and external attachments
  - (f) Mechanical infusion equipment
  - (g) Wall-mounted oxygen and suction outlets
  - (h) Storage equipment
  - (i) Sterile equipment for emergency delivery to include at least one clamp and suction bulb.
  - (j) Neonatal resuscitation cart.
- (2) Delivery rooms.
- (a) A delivery room table that allows variation in positions for delivery. This equipment is not required for the LDR/LDRP rooms.
  - (b) Adequate lighting for vaginal deliveries or cesarean deliveries
  - (c) Sterile instruments, equipment, and supplies to include sterile uterine packs for vaginal deliveries or cesarean deliveries, episiotomies or laceration repairs, postpartum sterilizations and cesarean hysterectomies
  - (d) Continuous in-wall oxygen source and suction outlets for both mother and infant
  - (e) Equipment for inhalation and regional anesthesia. This equipment is not required for LDR/LDRP rooms.
  - (f) A heated, temperature-controlled infant examination and resuscitation unit
  - (g) An emergency call system
  - (h) Plastic pharyngeal airways (adult and newborn size)
  - (i) Laryngoscope and endotracheal tubes (adult and newborn size)
  - (j) A self-inflating bag with manometer and adult and newborn masks that can deliver 100% oxygen
  - (k) Separate cardiopulmonary crash carts for mothers and infants
  - (l) Sphygmomanometer
  - (m) Cardiac monitor. This equipment is not required for the LDR/LDRP rooms.
  - (n) Gavage tubes
  - (o) Umbilical vessel catheterization trays This equipment is not required for LDR/LDRP rooms.
  - (p) Equipment that provides a source of continuous suction for aspiration of the pharynx and stomach
  - (q) Stethoscope
  - (r) Fetoscope
  - (s) Intravenous solutions and equipment
  - (t) Wall clock with a second hand
  - (u) Heated bassinets equipped with oxygen and transport incubator
  - (v) Neonatal resuscitation cart.
- (3) Recovery rooms.
- (a) Beds with side rails
  - (b) Adequate lighting
  - (c) Bedside stands, overbed tables, or fixed shelving
  - (d) An emergency call signal
  - (e) Equipment necessary for a complete physical examination
  - (f) Accessible oxygen and suction equipment
- D. Newborn service requirements are as follows:
1. Medical direction.
- a. The governing body shall appoint a physician as medical director of the organized newborn service who meets the qualifications specified in the medical staff bylaws.
  - b. If the medical director is not a board-certified pediatrician or board eligible in pediatrics, the hospital shall have a written agreement with one or more board-certified or board-eligible pediatricians to be available to provide consultation on a 24-hour basis. Consultation may be by telephone.
  - c. The duties and responsibilities of the medical director of the newborn service shall include but not be limited to:
    - (1) The general supervision of the quality of care provided patients admitted to the service;
    - (2) The establishment of criteria for admission to the service;
    - (3) The adherence to standards of professional practices and policies and procedures adopted by the medical staff and governing body;
    - (4) The development of recommendations to the medical staff on standards of professional practice and staff privileges;
    - (5) The identification of clinical conditions and medical or surgical procedures that require physician consultation;
    - (6) Arranging conferences, at least quarterly, to review routine and emergency surgical procedures, complications and infant and maternal mortality and morbidity. Infant mortality and morbidity shall be discussed with the obstetric service staff.
2. Physician consultation and coverage.

- a. The hospital shall have a written agreement with one or more board-certified or board-eligible neonatologists to be available to provide consultation, at least by telephone, on a 24-hour basis. The consultant shall be available to advise on the development of a protocol for the care and transport of sick newborns.
  - b. A physician with pediatric privileges capable of arriving on-site within 30 minutes of notification shall be on the 24-hour on-call duty roster.
  - c. A physician or a nurse skilled in neonatal cardiopulmonary resuscitation (CPR) shall be available in the hospital at all times.
  - d. A current roster of physicians, with a delineation of their obstetrical, newborn, pediatric, medical and surgical staff privileges shall be posted at each nurses' station in the newborn service units.
  - e. A copy of the 24-hour on-call duty schedule, including a list of on-call consulting physicians, shall be posted at each nurses' station in the newborn service units.
3. Nursing staff and coverage.
- a. Each occupied unit of the newborn service shall be under the supervision of a registered nurse 24 hours a day.
  - b. If the general care newborn unit is organized as separate nursing unit, staffing shall be based on a formula of one nursing personnel for every six to eight newborns. Staffing shall include at least one registered nurse for the unit for each duty shift.
  - c. If the postpartum and general care newborn units are organized as combined rooming-in or modified rooming-in units, staffing shall be based on a formula of one nursing personnel for every four mother-baby units. The rooming-in units shall always be staffed with no less than two nursing personnel assigned to each shift. One of the two nursing personnel shall be a registered nurse.
  - d. When infants are present in the nursery, at least one nursing staff person trained in the care of newborn infants with duties restricted to the care of the infants shall be assigned to the nursery at all times.
  - e. To ensure adequate nursing staff for the nursery during busy or crisis periods, duty schedules shall be developed in accordance with the following nurse/patient ratios:
    - (1) 1:4 Recently born infants and those needing close observation
    - (2) 1:6 to 8 Newborns needing only routine care
    - (3) 1:4 Mother-newborn care
    - (4) 1:1 Newborns requiring multisystem support
    - (5) 1:3 to 4 Newborns requiring intermediate care
    - (6) 1:1 to 2 Newborns needing intensive care
  - f. Student nurses, licensed practical nurses and nursing aides who assist in the nursing care of newborn infants shall be under the supervision of a registered nurse.
  - g. At least one member of the nursing staff on each shift who is skilled in cardiopulmonary resuscitation of the newborn must be immediately available to the newborn nursery area.
  - h. All nursing personnel assigned to the newborn service shall have orientation to the neonatal unit.
4. Policies and procedures. The governing body shall adopt written policies and procedures for the medical care of newborns approved by the medical and nursing staff of the service. The policies and procedures shall include, but not be limited to, the following:
- a. Criteria for the identification of high-risk neonatal patients;
  - b. The development of a system of communication, consultation, and written agreements for secondary and tertiary newborn services;
  - c. The hospital's provisions for the care of newborns transferred back from secondary and tertiary care services;
  - d. The care of newborns after delivery to include the following:
    - (1) Care of eyes, skin and umbilical cord and the provision of a single parenteral dose of Vitamin K-1, water soluble 0.5 mgm as a prophylaxis against hemorrhagic disorder;
    - (2) Maintenance of the newborn's airway, respiration, and body temperature;
    - (3) Assessment of the newborn and recording of the one-minute and five-minute Apgar scores;
  - e. Performance of prophylaxis against ophthalmia neonatorum by the administration of a 1.0% solution of silver nitrate aqueous solution, erythromycin, or tetracycline ointment or solution. This process is to be performed within one hour of delivery with documentation entered in the newborn's medical record. The process may be performed in the nursery;
  - f. Clamping or tying of the umbilical cord, and collecting a sample of cord blood;
  - g. Performance of Rh type and Coombs' tests for every newborn born to a Rh negative mother and performing major blood grouping and Coombs tests when indicated for every newborn born to an O blood group mother or a mother with a family history of blood incompatibility. If such qualitative tests are performed, the results shall be documented in the newborn's medical record;
  - h. Identification and treatment of hyperbilirubinemia and hypoglycemia;
  - i. Identification of each newborn, prior to leaving the delivery room, with two identification bands fastened on

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the newborn and one identification band fastened on the mother.

j. Newborn transport to include but not limited to, the transport of the newborn using a heated bassinet equipped with oxygen, transport incubator or similar device. The newborn's medical record shall accompany the infant from the delivery room.

k. Registered nurse or physician assessment of a newborn within one hour after delivery and documentation of the assessment in the newborn's medical record. Assessment in the delivery area is permitted if the hospital permits a newborn and its mother to remain together during the immediate post delivery period;

l. Delineation of how infants are to be monitored during stays with their mothers and under what circumstances infants must be taken to the nursery immediately after delivery and not allowed to remain with their mothers;

m. Physician examination of the newborn consistent with guidelines of the American Academy of Pediatrics. A high-risk newborn shall be examined upon admission to the nursery;

n. Ensuring that every bassinet and incubator in the nursery bears the identification of the newborn's last name, sex, date and time of birth, the mother's last name, and the attending physician's name;

o. The preparation and use of formula, including, but not limited to the following:

(1) The distribution of feeding units immediately after assembly;

(2) The use of prepared formula only within the time period designated on the package, and

(3) The use of presterilized formula only, except in the case of facility defined emergencies.

p. Screening newborns for risk factors associated with hearing impairment as required in §§ 32.1-64.1 and 32.1-64.2 of the Code of Virginia and in accordance with the regulations of the Board of Health governing the Virginia Hearing Impairment Identification and Monitoring System (VR 355-12-01);

q. Screening and treatment of genetic, metabolic, and other diseases identifiable in the newborn period as specified in the § 32.1-65 of the Code of Virginia and in accordance with the Regulations Governing the Newborn Screening and Treatment Program (VR 355-11-200);

r. Reporting to the Department of Health all congenital defects;

s. Visitor contact with the newborn, including newborns delivered by cesarean section, and premature, sick, congenitally malformed, and dying newborns;

t. Completion of birth certificates;

u. Protocols for the management of certain infant disease states. Consultation and referral shall be

developed by the newborn service medical director in conjunction with the director of the intensive care unit to which referrals are sent. The protocols shall spell out the details for the local management of disease states, and specific transfer criteria. These protocols shall be maintained in the nursery.

v. The designation of an intensive care nursery to which a general newborn nursery refers patients and from which it seeks consultation and advice. The telephone number of the intensive care nursery and the name of the newborn service medical director shall be maintained by the head nurse of the general care nursery.

5. Newborn service design criteria. In addition to complying with Article 5 of this part, a hospital shall comply with the following requirements for the physical design of the newborn nursery:

a. The newborn nursery shall be located adjacent to the obstetric nursing unit. The nursery must have adequate lighting and ventilation. The temperature and humidity in the nursery shall be maintained at a level best suited for the protection of newborns as determined by the medical and nursing staff of the newborn service and as recommended by the American Academy of Pediatrics (AAP) and American College of Obstetricians and Gynecologists (ACOG) in the most current editions of Guidelines for Perinatal Care.

b. The nursery shall be designed to preclude unrelated traffic. Connecting nurseries shall have the capability to close the doors for infection control purposes.

c. Each nursery shall contain the following:

(1) One handwashing lavatory for eight bassinets. Lavatories shall be equipped with wrist, knee or foot controls, soap dispenser and paper towel dispenser;

(2) A nurses' emergency calling system that meets the requirements of § 3.49 D of these regulations; and

(3) Glazed observation windows to permit infants to be viewed from public areas, from workrooms, and between adjacent nurseries.

d. There shall be a minimum of 24 square feet of floor area for each bassinet, exclusive of nonpatient areas, and a minimum of three feet between bassinets in the general newborn nursery. The nursery must be equipped to prevent direct drafts on infants.

e. The nursery shall contain no more than 16 infant stations in open bassinets, self-contained incubators, open radiant heat infant care systems, or combination thereof. A hospital designed for 16 infant stations or less shall provide two rooms with eight infant stations so that room is available to permit cohorting in the case of infection.

f. A special care area for infants requiring close observation or stabilization, such as those with low birthweight, is required in hospitals having 25 or more

postpartum beds. The minimum floor area for each infant station shall be 40 square feet (3.72. sq m).

g. Each nursery shall be served by a connecting workroom. The workroom shall contain gowning facilities at the entrance for staff and personnel, work space with counter, refrigerator, storage space and handwashing lavatory which meets the requirements of § 3.45 of these regulations. One workroom may serve more than one nursery.

h. The examination and treatment room shall contain a work counter, storage, handwashing lavatory and charting facilities. This may be part of the workroom.

i. A closet for the use of the housekeeping staff in maintaining the nurseries shall be provided. It shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies.

j. Lighting and wall finishes shall be sufficient to permit easy detection of jaundice and cyanosis. Shadow-free illumination with at least 100 foot candle intensity at the infant's level using fluorescent lamps with proper diffusers to prevent glare is required.

k. All incubators and electrical appliances used in nurseries shall be free from electrical hazards and approved by Underwriters Laboratories.

l. One grounded duplex electrical outlet shall be provided for every bassinets.

m. Task illumination and selected electrical outlets shall be on the hospital's emergency electrical system. In new construction, one outlet per bassinets shall be on the hospital's emergency electrical system. Emergency electrical outlets shall be clearly marked. Outlets shall be checked at least monthly for safety and grounding.

n. An incubator shall be available and maintained for every 10, or fraction thereof, bassinets.

o. Bassinets shall be equipped to allow for medical examinations of newborn infants and for storing necessary supplies and equipment. Bassinets shall be provided in a number to exceed obstetric beds by 20%, at the minimum, to accommodate multiple births, extended stays, and fluctuating patient loads. Bassinets are to be separated by a minimum of three feet measuring from the edge of one bassinets to the edge of the adjacent bassinets.

p. The hospital shall provide isolation facilities which follow universal precautions in accordance with its approved policies and procedures and the Guidelines for Perinatal Care (AAP/ACOG) and the Control of Communicable Diseases in Man (American Public Health Association).

6. Equipment requirements. The hospital shall provide the following equipment in the nursery:

a. Resuscitation equipment as specified for the delivery room in these regulations shall be available in the nursery at all times;

b. Equipment for the delivery of 100% oxygen concentration, with the ability to measure delivery oxygen in fractional inspired concentrations (FIO<sub>2</sub>). The oxygen analyzer shall be calibrated every eight hours and serviced at least monthly by the hospital's respiratory therapy department or other responsible personnel trained to perform the task;

c. Equipment for monitoring blood oxygen concentration levels i.e. a pulse oximeter;

d. Equipment for monitoring blood sugar;

e. Infant scales;

f. Intravenous therapy equipment;

g. Open bassinets, self-contained incubators, open radiant heat infant care system or any combination thereof;

h. Equipment for stabilization of a sick infant prior to transfer that includes a radiant heat source capable of maintaining an infant's body temperature at 99°F.

E. Combined obstetric and clean gynecological service. A hospital may combine obstetric and clean gynecological services. The hospital shall define clean gynecological cases in written hospital policy. A combined obstetric and clean gynecologic service shall be organized under written policies and procedures. The policies and procedures shall be approved by the medical and nursing staff of these services and adopted by the governing body and shall include, but not limited to the following requirements:

1. Cesarean section and obstetrically-related surgery, other than vaginal delivery, shall be carried out in designated operating or delivery rooms. Vaginal deliveries may be performed in designated delivery or operating rooms that are used solely for obstetric or clean gynecologic procedures.

2. Clean gynecological cases may be admitted to the postpartum nursing unit of the obstetric service according to procedures determined by the obstetrics and gynecologic staff and the hospital's infection control committee.

3. Only members of the medical staff with approved privileges shall admit and care for patients in the combined service area. These admissions shall be subject to the medical staff bylaws.

4. Hospitals with a combined service shall limit admission to the service to those patients allowed by policies adopted by the obstetric and gynecological medical staff and the hospital's infection control committee.

5. Unoccupied beds shall be reserved daily in a combined service ready for use by obstetric patients.

6. Patients admitted to the combined service may be taken to radiology or other hospital departments for diagnostic procedures, before or after surgery, if it is not evident that these procedures may be hazardous to the patients or to other patients on the combined service.

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7. Patients may receive postpartum or immediate postoperative care in the general recovery room prior to being returned to the combined service area if the following conditions prevail:

- a. The recovery room or intensive care unit is a separate unit adjacent to or part of the general surgical operating suite or delivery suite;
- b. The recovery room is under the direct supervision of the chairman of the anesthesiology department of the hospital. In separate obstetric recovery rooms, supervision shall be provided by the obstetrician in charge or by physicians approved by the medical staff of the combined service.

8. Nursing care of all patients shall be supervised by a registered nurse.

9. Nursing care of both obstetrical and gynecological patients may be given by the same nursing personnel.

10. Visitor regulations applicable to visitors of obstetric patients shall also apply to visitors of other patients admitted to the combined service.

F. In addition to the infection control requirements specified in § 2.33 of these regulations, the hospital's infection control committee, in cooperation with the obstetric and newborn medical and nursing staff, shall establish written policies and procedures for infection control within the obstetric and newborn services. The policies and procedures shall be adopted by the governing body and shall include, but not be limited, to the following:

1. The establishment of criteria for determining infection-related maternal and newborn morbidity;
2. Written criteria for the isolation or segregation of mothers and newborns, in accordance with Guidelines for Perinatal Care (American Academy of Pediatrics/American College of Obstetricians and Gynecologists) and Control of Communicable Diseases in Man (American Public Health Association) to include at least the following categories:
  - a. Birth prior to admission to the facility;
  - b. Birth within the facility but prior to admission to the labor and delivery area;
  - c. Readmission to the service after transfer or discharge;
  - d. Presence of infection;
  - e. Elevated temperature; and
  - f. Presence of rash, diarrhea, or discharging skin lesions;
3. Written policies and procedures for the isolation of patients in accordance with Guidelines for Perinatal Care (AAP/ACOG) and Control of Communicable Diseases in Man (American Public Health Association) including, but not limited to the following:

- a. Ensuring that a physician orders and documents in the patient's medical record the placement of a mother or newborn in isolation;

- b. Ensuring that at least one labor room is available for use by a patient requiring isolation;

- c. Provisions for the isolation of a mother and newborn together (rooming-in) or separately; and

- d. Policies and procedures for assigning nursing personnel to care for patients in isolation.

4. Control of traffic, including personnel and visitors. Policies and procedures shall be established in the event that personnel from other services must work in the obstetric and newborn services or personnel from the obstetric and newborn services must work on other services. Appropriate clothing changes and handwashing shall be required of any individual prior to assuming temporary assignments or substitution from any other area or service in the hospital.

5. Determination of the health status of personnel, and control of personnel with symptoms of communicable infectious disease;

6. Review of cleaning procedures, agents, and schedules in use in the obstetric and newborn services. Incubators or bassinets shall be cleaned with detergent and disinfectant registered by the U.S. Environmental Protection Agency each time a newborn occupying it is discharged or at least every seven days;

7. Techniques of patient care, including handwashing and the use of protective clothing such as gowns, masks, and gloves;

8. Infection control in the nursery including, but not limited to, the following:

- a. Closing of the nursery immediately in the event of an epidemic, as determined by the infection control director in consultation with the medical director and the Department of Health;

- b. Assigning a newborn to a clean incubator or bassinet at least every seven days;

- c. Using an impervious cover that completely covers the surface of the scale pan if newborns are weighed on a common scale, and changing the cover after each newborn is weighed;

- d. Gowning in isolation cases;

- e. Requiring that nursery personnel wear clean scrub attire in the nursery when they are handling infants. Appropriate cover garments shall be worn over scrub attire when personnel are holding infants. Personnel shall wash their hands after contact with each patient and upon entering or leaving the nursery.

## § 2.29. Psychiatric service.

A. The psychiatric service shall be under the supervision of a physician who meets the qualifications of the medical staff bylaws.

B. Psychiatric units shall conform to the applicable licensure requirements of the Department of Mental Health, Mental Retardation and Substance Abuse Services in accordance with Appendix A, Reference 15.

## § 2.30. Special care units.

A. As used in this section, special care units may be multipurpose or include but not be limited to units for: intensive care, burn care, coronary care, pulmonary care, rehabilitation, and hemodialysis.

B. Special care units shall have a defined organization. Each unit shall be designed and equipped for the defined special functions. Each special care unit shall be governed by written policies and procedures specifically relating to utilization of the service.

C. Each unit shall be under the direction of a physician qualified by training and experience in the specialty care in accordance with medical staff bylaws.

D. Personnel shall be provided based on the scope and complexity of the services provided.

E. The hospital shall have a written plan for a continuing education program developed specifically for personnel of special care units.

## § 2.31. Outpatient (ambulatory care).

A. All hospital outpatient (ambulatory care) services shall conform to all applicable rules and regulations herein, since such services are an integral part of the hospital and covered by its licensure.

B. Freestanding outpatient surgical hospitals shall comply with the provisions of Part IV of these regulations.

## Article 4.

### Environmental and Maintenance Services.

## § 2.32. Housekeeping service.

A. Written housekeeping procedures shall be established for the cleaning of all areas in the hospital and copies posted in appropriate areas.

B. All parts of the hospital and its premises shall be kept clean, neat, and free of litter and rubbish.

C. Equipment and supplies shall be provided for cleaning of all surfaces. Such equipment shall be maintained in a safe and sanitary condition.

D. Cleaning solutions and substances shall be labeled, stored in a safe place, and kept separate from food storage and patient care supplies.

E. Cleaning shall be performed in a manner which will minimize the spread of pathogenic organisms in the hospital atmosphere.

F. Exhaust ducts from kitchens and other cooking areas shall be equipped with proper filters and cleaned at regular intervals. The ducts shall be cleaned and inspected no less than twice a year.

## § 2.33. Infection control.

A. Each hospital shall have an infection control committee to perform at least the following functions:

1. Establish a hospital-wide infection surveillance program and designate an infection control officer to conduct all infection surveillance activities and to maintain appropriate records to include infection rates by body site and clinical service and all hospital acquired blood stream pathogens.

2. Establish written policies governing the admission and isolation, including protective isolation, of patients with known or suspected infectious diseases.

3. Develop, periodically evaluate, and revise as needed, infection control policies, procedures and techniques for all appropriate phases of hospital operation and service in order to protect patients, employees, and visitors. These policies shall include, but are not limited to, appropriate employee health screening and immunization and acceptable techniques and practices for high risk procedures such as parenteral hyperalimentation, urinary tract catheterization, dialysis, and intravenous therapy. (Written advice and guidance is available in the "Guidance for Appropriate Communicable Disease and Employee Health Policies in General and Special Hospitals" provided by the Division of Epidemiology, Virginia Department of Health.)

B. An educational program on infection control for all appropriate personnel shall be conducted.

C. Reporting of diseases shall be as follows:

1. The hospital shall report promptly to the Virginia Department of Health through the local health department cases of disease designated as "reportable diseases" by the Board when such cases are admitted to or are diagnosed in the hospital in accordance with Appendix A, Reference 11. This obligation for reporting shall include all hospital outpatient care and emergency facilities.

2. The hospital shall report promptly to the Virginia Department of Health through the local health department in accordance with Appendix A, Reference 11, any outbreak of infectious disease, including nosocomial infections. An outbreak shall be defined as an increase in incidence of any infectious disease above the usual incidence at the hospital.

3. Two or more epidemiologically related infections, including, but not limited to, staphylococcus aureus, group A beta hemolytic streptococcus, and salmonella species occurring in the obstetrical or nursery units shall be reported to the Virginia Department of Health through the local health department.

## § 2.34. Laundry service.

Each hospital shall make provisions for the safe and effective cleaning of all linens as follows:

1. Hospitals providing laundry service shall have adequate facilities and equipment for the safe and effective operation of such service.

2. There shall be distinct areas for the separate storage and handling of clean and soiled linens. Those areas



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used for storage and handling of soiled linens shall be negatively pressurized.

3. Special procedures shall be established for the handling and processing of contaminated linens.

4. All soiled linen shall be placed in closed containers prior to transportation.

5. To safeguard clean linens from cross-contamination they shall be:

a. Transported in containers used exclusively for clean linens unless such containers are routinely and regularly sanitized before use as a clean linen transport container and shall be kept covered at all times while in transit; and

b. Stored in areas designated exclusively for this purpose.

## Article 5.

### Physical Plant Requirements for Existing Buildings.

#### § 2.35. General.

Existing inpatient hospitals shall comply with the physical plant requirements in this section.

1. For purposes of this section an existing hospital is one which was licensed, or had approved final working drawings and specifications, or was under construction, prior to the effective date of these regulations.

2. Each hospital or part thereof shall be maintained and equipped in accordance with the codes and standards under which it was constructed to provide a functional, sanitary, safe and comfortable environment.

#### § 2.36. Fire and safety.

Each hospital shall establish a monitoring program for the internal enforcement of all applicable fire and safety laws and regulations and such a program shall include written procedures for the implementation of said rules and regulations, and logs shall be maintained for at least two years.

#### § 2.37. Incinerators.

A. Incinerators shall be designed, constructed and separated from other parts of the building in accordance with Appendix A, Reference 13.

B. Incinerators shall be approved by the Virginia Air Pollution Control Board.

#### § 2.38. Lighting and electrical services.

A. Policies and procedures shall be established to minimize the hazards in the use and operation of all electrical equipment.

B. The standards of Appendix A, Reference 14 of these regulations shall serve as a guide to determine the lighting levels within each area of the hospital.

C. All electrical appliances used by hospitals shall have the Underwriters Laboratories' label or its equivalent.

D. An alternate source of electricity to serve critical areas in the event of power failure shall be provided. The emergency system shall be installed so that it is automatically activated in the event of failure of the major power source and shall be capable of providing at least 24 hours of uninterrupted light and power.

#### § 2.39. Plumbing.

A. All plumbing material and plumbing systems or parts thereof shall meet the minimum requirements of Appendix A, Reference 14.

B. All plumbing shall be installed in such a manner as to prevent back siphonage or cross connections between potable and nonpotable water supplies.

#### § 2.40. Sewage disposal systems.

All required sanitary waste piping systems shall be connected to an approved sewage system.

#### § 2.41. Waste disposal.

Pathological and bacteriological wastes, dressings and other contaminated wastes shall be incinerated at the hospital or disposed of by other methods as approved by the licensing agency.

#### § 2.42. Water supply.

A. Water shall be obtained from an approved water supply system.

B. The water shall be distributed to conveniently located taps and fixtures throughout the buildings and shall be adequate in volume and pressure for all hospital purposes, including fire fighting.

C. Plumbing fixtures which require hot water and which are intended for patients' use shall be supplied with water which is controlled to provide a maximum tap water temperature of 120°F at the fixture.

D. Hot water heaters and tanks shall be of sufficient capacity to supply the hot water needs for the entire facility at all times.

#### § 2.43. Heating system.

The heating system shall be capable of maintaining a temperature of 75°F. uniformly throughout the patient areas. Space heaters or heaters of an open coil type shall not be used.

#### § 2.44. Ventilation system.

The ventilation system shall be maintained functional at all times to change the air on a basis commensurate with the type of occupancy.

#### § 2.45. Patient rooms.

A. All patient bedrooms shall be above ground level and shall have an operable window.

B. No room opening off the kitchen shall be used for patient care.

C. Patients' rooms shall have at least 70 sq. ft. of floor area per bed in multi-bed rooms and 100 sq. ft. per bed in single-

bed rooms. The usable space should provide for at least three feet between beds, three feet from the end of the bed to the wall and at least two feet six inches between the bed and the wall.

D. A nurses signaling device shall be provided at each patient's bedside and at all toilet bathing facilities used by patients.

## § 2.46. Nursing units.

The following services shall be provided for each unit:

1. A nurses station shall be provided with space for nurses desk and charting, a medicine preparation area with work counter and sink and a locked medication cabinet. The medication preparation shall be well ventilated.
2. At least one utility room divided into clean and soiled sections (unless separate clean and soiled utility rooms are provided).
3. A janitor's closet with at least a service sink or floor receptor. The janitor's closet shall be separate from any toilet or utility room.
4. Toilet, handwashing and bathing facilities shall be provided on each floor in a reasonable ratio according to the number and sex of patients and personnel.
5. General storage space to accommodate all required supplies and equipment shall be provided.
6. Corridors used by patients shall be maintained free and unobstructed to permit safe patient and personnel traffic.

## § 2.47. Safety procedures.

A. Safety precautions shall be maintained against electrical, mechanical and radiation hazards, as well as against fire and explosion in accordance with the standards of Appendix A, References 8 and 14.

B. All radiographic machines shall be registered with the Bureau of Radiological Health of the Virginia Department of Health. Installation, calibration and testing of machines and storage facilities shall conform to the requirements of Appendix A, Reference 8.

C. Monitoring of personnel and of areas shall be carried out through the use of appropriate measuring devices, and records shall be maintained of results of such monitoring in accordance with the standards of Appendix A, Reference 8.

## § 2.48. Alteration of existing hospitals.

A. Architectural drawings shall be submitted for such alterations in accordance with § 3.8 of these regulations, and the project approved in writing by the department before the changes are made.

B. Alterations in existing hospitals shall not be undertaken unless the changes meet the applicable standards for new buildings in accordance with Part III of these regulations.

## PART III.

## STANDARDS AND DESIGN CRITERIA FOR NEW BUILDINGS AND ADDITIONS, ALTERATIONS AND CONVERSION OF EXISTING BUILDINGS

### Article 1.

#### Standards and Design Criteria.

#### § 3.1. General information.

A. The requirements set forth herein have been established under authority of §§ 32.1-127 and 32.1-132 of the Code of Virginia and constitute minimum requirements for designing, constructing, and equipping of hospitals built in Virginia after the effective date of these regulations.

B. Additions, alterations or renovations to existing licensed hospitals or existing buildings to be occupied as a hospital shall conform to these minimum requirements, except where variances are granted by the Commissioner in accordance with § 1.3 A of these regulations.

C. Conversions of existing buildings to hospital occupancy shall be considered only in those buildings which were originally constructed for institutional occupancy. Variances may be considered by the Commissioner in accordance with § 1.3 A of these regulations provided patient care and safety to life from fire are not adversely affected by such variance.

D. Additions, alterations and renovations to existing buildings shall be programmed and phased so that on-site construction will minimize disruptions of existing patient care services. Access, exitways, and fire protection shall be maintained so that the safety of the occupants will not be jeopardized during construction.

#### § 3.2. Codes and fire safety.

All construction of new buildings and additions, renovations or alterations of existing buildings for occupancy as a hospital shall comply with the applicable sections of the following state and local codes:

1. Statewide Uniform Building Code, including the requirements of the Life Safety Code, National Fire Protection Association, #101, 1973 Edition;

In matters regulated by both the Statewide Uniform Building Code and the Life Safety Code, the requirements of the Life Safety Code shall supersede the Statewide Uniform Building Code.

2. Rules and Regulations approved by the State Board of Health and the State Water Control Board governing sewage systems (VR 355-17-02).

3. Waterworks Regulations (VR 355-18-000) approved by the State Board of Health;

4. Solid Waste Management Regulations (VR 672-20-10) and Hazardous Waste Management Regulations (VR 672-10-1) approved by the Virginia Waste Management Board;

5. Local zoning housing and building ordinances.

#### § 3.3. Certification of medical care facilities.

Under authority of § 32.1-137 of the Code of Virginia the board is the sole state agency of the Commonwealth

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authorized to enter into a contract with the United States government for the certification of medical facilities under Title XVIII of the Social Security Act or any amendments thereto.

## § 3.4. Special design considerations for the handicapped.

Special design features for the handicapped (patients, staff, and visitors) shall be provided for all hospitals. The following items are listed to emphasize some of these special design elements.

1. Walkways and curbs shall be planned to facilitate travel by people in wheelchairs, on crutches or walkers.
2. Signals, such as elevator calls, shall be both audible and visible. Elevator control buttons shall be accessible to wheelchair occupants.
3. Not less than 2.0% of all parking spaces (with a minimum of two spaces) shall be set aside for the handicapped.
4. Special design attention shall be given to the shielding of sharp projections, moving parts, and heated surfaces.
5. Drinking fountains, toilets, handwashing facilities and telephones shall be available for physically handicapped patients, staff, and visitors. At least one bathing facility, one handwashing lavatory, and one toilet on each nursing floor shall be provided for physically handicapped patients.
6. At least one primary grade level entrance to the building shall be arranged to be fully accessible to handicapped persons.
7. Provisions shall be made to identify each room and each floor for the visually handicapped, such as using raised letters or numerals at corridor doors and elevator entrances and controls.
8. All carpeting in areas subject to use by handicapped individuals shall be specified as high density, with a low, uncut pile. Underlayments are permissible provided they are specified as firm or hard and do not exceed 3/8 inches in depth. Carpets, and underlayments if used, shall be installed stretched taut and securely anchored at all edges to the floor to provide a minimum of resistance to wheelchair travel and to avoid tripping hazards.

## § 3.5. Site requirements.

A. The following shall be considered in selecting the site of any new hospital:

1. Easy access to the community and to service vehicles such as fire protection apparatus and other emergency vehicles.
2. The accessibility by public transportation.
3. Accessibility to professional personnel (physicians, nurses) and other employees.
4. Availability of water supply and sewage disposal services and facilities. The water supply system shall provide adequate capacity for domestic and fire protection systems.

5. To minimize flood damage, due consideration shall be given to possible flood effects when selecting and developing the site.

B. Paved roads shall be provided within the lot to provide access to the main entrance, emergency entrance, and to service entrances, including loading docks for delivery trucks. Hospitals which have an organized outpatient service shall have the outpatient entrance well marked to facilitate entry from the public roads or streets serving the site. Access to the emergency entrance shall not conflict with other vehicular traffic or pedestrian traffic. Paved walkways shall be provided for necessary pedestrian traffic.

C. Each hospital shall have parking space to satisfy the minimum needs of patients, employees, staff, and visitors. A minimum of two parking spaces per licensed bed may be used as a guideline. This ratio may be reduced in an area convenient to a public transportation system or to public parking facilities or where other arrangements to reduce traffic have been developed if justification is included in the narrative program and provided that approval of any reduction is obtained from the appropriate state or local agency. Additional parking may be required to accommodate outpatient and other services and space shall be provided for emergency and delivery vehicles.

D. The site and building shall be designed to minimize any adverse environmental effects on the neighborhood and community. All applicable Federal and State regulations pertaining to environmental pollution such as noise, air, and traffic must be met.

## § 3.6. Equipment.

A. All equipment necessary for the operation of the hospital as designed, shall be shown on the drawings or equipment list. The design shall provide for the installation and replacement of large and special items of equipment, and also make provision for the accessibility to service and maintenance of all fixed equipment.

B. Equipment which is not included in the construction contract but which requires mechanical or electrical service connections or construction modifications shall be so identified on the drawings to ensure coordination with the architectural, mechanical, and electrical phases of construction.

## § 3.7. Record drawings and manuals.

A. Upon completion of the contract, the hospital shall maintain a complete set of legible drawings showing all construction, fixed equipment, and mechanical and electrical systems, as installed or built.

B. The hospital shall maintain a complete set of installation, operation, and maintenance manuals for the installed equipment.

C. The hospital shall maintain complete design data of the building(s) including structural design loadings, summary of heat loss assumptions and calculations, estimated water consumption, and electric power requirements of installed equipment.

## § 3.8. Drawings and specifications.

A. Architectural drawings and specifications for all new construction or for additions, alterations or renovations to any existing building shall be submitted to the licensing agency for review. Construction shall not be commenced prior to approval by the [ Division office ].

B. Architecture drawings and specifications and any revisions thereto shall be dated, stamped with licensure seal and signed by the architect. The architect shall certify that the drawings and specifications were prepared to conform to building code requirements.

C. Drawings for all proposed alterations shall be submitted to the licensing agency for approval. Minor alterations which do not affect the structural integrity of the building, fire safety, functional operation, or which do not increase capacity over that for which the hospital is licensed, may be freehand sketches or drawings. Maintenance and repairs routinely done by the hospital do not require approval of the licensing agency, but shall be done in compliance with the applicable provisions of these regulations.

## § 3.9. Construction inspections and certifications.

A. The owner of a hospital shall notify the licensing agency in writing, not later than 10 days after the date construction is commenced; and also when stages of construction are 50%, 75% and 95% and on completion.

B. At the completion of construction the contractor shall certify, in writing, that the project was constructed to the requirements shown in the approved drawings and specifications. A copy of this certification must be forwarded to the licensing agency.

C. The architect shall issue a Certificate of Substantial Completion and prepare a final punch list prior to the final construction inspection by the licensing agency.

D. The hospital shall provide the licensing agency with a copy of certification of testing in accordance with applicable codes and standards for the emergency electrical system, medical gas system, isolated power systems, radiation protection, and elevators, when applicable.

## § 3.10. General physical plant requirements.

A. Hospitals shall conform to applicable sections of these physical plant requirements according to the proposed services to be provided.

B. The sizes of the space for various departments will depend upon program requirements and organization of service within the hospital. Some functions requiring separate spaces or rooms may be combined provided the resulting design will not compromise the best standards of safety and of medical and nursing practices.

C. Space for dietary, laundry, power plant, mechanical equipment, ambulance entrance, autopsy or morgue, loading dock, incinerator, garbage can cleaning and storage areas for garbage and trash shall be located or constructed in a manner that will minimize noise, steam, odors, hazard and unsightliness to patient bedrooms, dining rooms, and lounge areas.

## § 3.11. Acute care nursing unit.

A. Acute nursing units shall conform to the following:

1. Patient rooms, service rooms or service areas shall not be used as required corridors or passageways to other patient rooms, service areas or required exits.
2. Patient rooms shall be located no more than 120 feet (36.6m) from the nurses' station, the clean workroom or the soiled workroom.
3. All patient corridors in the nursing unit shall be visible from the nurses' station.
4. Where one or more walls of a court contain a door or window of one or more patient rooms, the least dimension of the court shall be 30 feet (9.14m) between facing structures. A court is defined as an open exterior space bounded on three or more sides by walls of a structure.
5. Corridors used by patients shall have a minimum width of 8 feet (2.44m). Handrails shall be mounted 33 inches (84cm) above the finished floor and shall have ends that return to the wall.
6. Night lights shall be provided in patient rooms.

B. Each patient room shall meet the following requirements:

1. Minimum room areas exclusive of toilet rooms, closets, columns or other projections shall be 100 square feet (9.29 sq. m) in single-bed rooms and 80 square feet (7.43 sq. m) per bed in multi-bed rooms. In multi-bed rooms, a clearance of 3'8" (1.12m) shall be available at the foot of each bed to permit the passage of beds.
2. Each room shall have direct access to the patient corridor except that such access may be through an anteroom or vestibule.
3. Each room shall be provided with natural light as a primary source of light. Windows shall be openable from the inside, without the use of special tools. Window openings shall be designed to prevent accidental falls by patients.
4. Nurses' calling system shall meet the requirements of § 3.49 of these regulations. Medical gas system shall meet the requirements of § 3.45 of these regulations.
5. One handwashing lavatory shall be provided in each patient room except that it may be omitted from a single-bed or a two-bed room, if a lavatory is located in adjoining toilet room which serves that room only.
6. Each patient shall have access to a toilet room with a water closet without entering the general corridor area. One toilet room shall serve no more than four beds and no more than two patient rooms.
7. Each patient shall have a wardrobe, locker, or closet that is suitable for hanging full length garments and for storing personal effects.
8. Cubicle curtains for visual privacy shall be provided for each bed in multi-bed rooms.

C. The service areas noted below shall be located in each nursing unit. The size and design requirements for each service area will depend upon the number of beds to be

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served. Although identifiable spaces are required for each of the indicated functions, consideration will be given to design solutions to accommodate functions without specifying areas or rooms, or the sharing of some functions with other nursing units. Details of such proposals shall be included on the architecture drawings when submitted to the licensing agency. The following shall be provided in each nursing unit.

1. Nursing station with space for nurses' charting, doctors charting, storage for administrative supplies, and a handwashing lavatory. This handwashing lavatory could also serve the drug distribution station, if conveniently located.
2. Nurses office.
3. Toilet room(s) for staff.
4. Individual closets or compartments for the safekeeping of coats and personal effects of nursing personnel shall be located convenient to the nurses station or in a central location.
5. The clean workroom shall contain a work counter, handwashing lavatory and storage area.
6. The soiled workroom shall contain a clinical sink or equivalent flushing rim fixture, handwashing lavatory, work counter, waste receptacle and linen receptacle.
7. Provision shall be made for convenient and prompt 24-hour distribution of medicine to patients. This may be from a medicine preparation room or unit, a self-contained medicine dispensing unit, or by another approved system. A medicine preparation room shall be under the nursing staff's visual control and contain a work counter, refrigerator, and locked storage for biologicals and drugs. A medicine dispensing unit may be located at the nurses' station, in the clean workroom, or in an alcove or other space under direct control of the nursing or pharmacy staff.
8. A janitor's closet shall be provided with floor receptor or service sink.
9. Clean linen storage shall be a separate closet or a designated area within the clean workroom. If a closed cart system is used, storage may be in an alcove.
10. A nourishment station shall contain a handwashing lavatory, work counter, equipment for serving nourishment between scheduled meals, refrigerator, ice maker and storage cabinets.
11. An equipment storage room shall be used for storage of equipment such as I.V. stands, stretchers, wheelchairs, inhalators, air mattresses, and walkers.
12. Bathtubs or showers shall be provided at the rate of one for each 10 beds which are not otherwise served by bathing facilities within patient rooms. Each tub or shower shall be in an individual room or enclosure which provides space for the private use of the bathing fixture and for drying and dressing. At least one bathing facility on each nursing floor shall be designated to permit use by a wheelchair patient with an assisting attendant.

D. Rooms for patients requiring isolation shall be provided at the rate of one for each 40 beds or major fraction thereof. These may be located within each nursing unit or placed together in a separate unit. Each isolation room shall be a single-bed room and designated as a patient room, except as follows:

1. Entrance from the patient corridor shall be through a vestibule (a closed anteroom or a passageway open to the room) which shall contain a handwashing lavatory, storage spaces for clean and soiled materials and gowning facilities;
2. If a closed anteroom is used, a viewing panel shall be provided for observation of the patient from the anteroom.
3. A private toilet room containing a water closet and a bathtub or shower shall be provided for the exclusive use of the patient with direct entry from the patient bed area without passing through the vestibule; and
4. A handwashing lavatory shall be provided for the exclusive use of the patient. It shall be located in the patient room or in the private toilet area.

E. Rooms for disturbed medical patients. When psychiatric facilities are not available elsewhere in the community, each hospital shall provide at least one single bed room for patients needing close supervision for medical and/or psychiatric care. This may be part of the psychiatric unit described in § 3.17 of these regulations. If the room is part of the acute care nursing unit it shall be located so that the doorway is visible for direct supervision. Such room shall be [ ~~designated~~ *designed* ] to minimize potential for escape, hiding, injury, or suicide.

## § 3.12. Long term care nursing units.

Long term care nursing units, including intermediate and skilled nursing care nursing units shall conform to the requirements of Part III, § 44, of the "Rules and Regulations for the Licensure of Nursing Homes in Virginia (VR 355-33-100)," which includes but is not limited to:

1. A total of 25 square feet (2.32 sq. m) per bed with a minimum size of not less than 225 square feet (20.9 sq. m) shall be provided for patient dining and recreational areas;
2. A separate room and appropriate equipment shall be provided for hair care and grooming needs of patients; and
3. Adequate facilities shall be provided for physical therapy, occupational therapy or activities, and consultation.

## § 3.13. Intensive care unit.

A. Facilities for the intensive care of medical, surgical, or cardiac patients have specific space requirements. These patients, especially those requiring cardiac care, are often acutely aware of the surroundings environment and may be affected by it. Controlling unnecessary noise is important. Each patient may require individual privacy, although each is required to be under constant observation. Natural lighting by windows minimizes the possibility of disorientation. Cardiac intensive care patients shall be housed in single-bed rooms. Intensive care units may be designed with single-bed rooms or

multi-bed rooms, provided each unit contains at least one single-bed room. All beds shall be arranged to permit direct visual observation by nursing staff.

B. Patient rooms shall meet the following requirements:

1. Clearance between beds in multi-bed rooms shall be not less than 7'0" (2.13 m). Single-bed rooms or cubicles shall have a minimum clear space of 120 square feet (11.15 sq. m) and a minimum dimension of 10'0" (3.05 m);
2. Viewing panels shall be provided indoors and walls for nursing observation. Curtains or other means shall be provided to cover the viewing panels when the patient requires privacy. Glazing in viewing panels shall be a safety glass, wire glass, or clear plastic, except that wire glass is required in glazed openings to corridors or passageways used as means of egress for fire safety purposes;
3. An I.V. solution support shall be provided for each bed and designed so that the solution is not suspended directly over the patient;
4. A handwashing lavatory and water closet shall be provided in each single bed room. In multibed rooms one handwashing lavatory and water closet for each six beds shall be provided which is directly accessible from the bed area;
5. Each water closet shall have sufficient clearance around it to facilitate its use by patients needing assistance;
6. A nurses calling system which meets the requirements of § 3.49 of these regulations shall be provided;
7. Each patient room shall have an operable window which meets the requirements of § 3.40 of these regulations; [ and ]
8. Individual lockers of a size to permit hanging of full length garments shall be provided for storage of patient clothing and personal effects. These lockers may be located outside the intensive care units; [ and ]
9. A separate visitors waiting room shall be provided in close proximity to the intensive care unit. Toilet, handwashing and public telephone facilities shall be available to the waiting area.

C. The following service areas shall be located in or readily available to each intensive care or cardiac care unit. One area may serve two or more adjacent units. The size and location of each service will depend on the number of beds to be served.

1. A nurses station shall be located to permit direct visual observation of each patient.
2. Handwashing facilities shall be convenient to nurses' station and drug distribution station.
3. Charting facilities shall be separated from monitoring service.
4. Staff's toilet room shall contain a water closet and a handwashing lavatory.

5. Individual closets or compartments for the safekeeping of coats and personal effects of nursing personnel. These shall be located at or near the nurses' station.

6. Clean workroom shall contain a work counter, handwashing lavatory and storage facilities.

7. Soiled workroom shall contain a clinical sink or equivalent flushing rim fixture, handwashing lavatory, work counter, waste receptacle and linen receptacle.

8. Drug distribution station shall meet the requirements of § 3.11 C 7 of these regulations.

9. Janitor's closet shall meet the requirements of § 3.11 C 8 of these regulations.

10. Clean linen storage area shall meet the requirements of § 3.11 C 9 of these regulations.

11. Nourishment station area shall meet the requirements of § 3.11 C 10 of these regulations.

12. Emergency equipment storage space shall be provided for a "crash cart and similar emergency equipment."

13. Equipment storage room area shall meet the requirements of § 3.11 C 11 of these regulations.

§ 3.14. Obstetric nursing unit.

A. The obstetric nursing unit shall be designed to assure the separation of the postpartum patients from any other type of patient. "Clean" gynecological patients, as defined in hospital policy, may be housed on the unit.

B. The obstetric nursing unit shall meet the requirements of § 3.11 C of these regulations, except the following:

1. A handwashing lavatory shall be provided directly in the patient room;
2. A soiled workroom and janitors' closet shall be for the use of the obstetric nursing unit and newborn services unit;
3. All required bathing facilities shall be showers or tub units with showers.

§ 3.15. Newborn nurseries.

A. Newborn infants shall be housed in nurseries which are located adjacent to the obstetric nursing unit. The nurseries shall be designed to preclude unrelated traffic. No nursery shall open directly into another nursery.

B. Each nursery shall contain the following:

1. One handwashing lavatory for each eight bassinets. Lavatories shall be equipped with knee, wrist or foot controls, soap dispenser and paper towel dispenser;
2. The nurse emergency calling system shall meet the requirements of § 3.49 of these regulations;
3. Glazed observation windows to permit viewing infants from public areas, from workrooms, and between adjacent nurseries.

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C. The general care nursery shall contain no more than 16 infant stations. A minimum of 3 feet (91 cm) shall be provided between bassinets. The minimum floor area shall be 24 square feet (2.23 sq. m) for each infant station. When a rooming-in program is used, the total number of bassinets provided in the general care nursery may be appropriately reduced, but the nursery may not be omitted.

D. A special care area for infants requiring close observation, such as those with low birth weight, is required in hospitals having 25 or more postpartum beds. The minimum floor area per infant station shall be 40 square feet (3.72 sq. m).

E. Each nursery shall be served by a connecting workroom.

F. The workroom shall contain gowning facilities at the entrance for staff and personnel, work space with counter, refrigerator, storage space and handwashing lavatory which meets the requirements of § 3.45 B of these regulations. One workroom may serve more than one nursery.

G. The examination and treatment room shall contain a work counter, storage, handwashing lavatory and charting facilities. This may be part of the workroom.

H. Janitors' closet. A closet for the use of the housekeeping staff in maintaining the nurseries shall be provided. It shall contain a floor receptor or service sink and storage space for housekeeping equipment and storage.

## § 3.16. Pediatric and adolescent unit.

A. A hospital with a designated pediatric unit shall house young children and adolescents in a nursing unit separate from adults.

B. The requirements of § 3.12 of these regulations shall be applied to a pediatric unit containing pediatric beds, except that patient rooms used for cribs shall contain at least 60 square feet (5.58 sq. m) of clear area for each crib with no more than six cribs in a room.

C. Each nursery serving pediatric patients shall contain no more than 8 bassinets and shall meet the requirements of § 3.15 B of these regulations.

D. The service areas in the pediatric and adolescent nursing unit shall meet the requirements of § 3.12 of these regulations and shall meet the following additional conditions:

1. Multipurpose or individual room(s) shall be provided for dining, educational, and play purposes. Special provisions shall be made to minimize the impact noise transmission through the floor of the multipurpose room(s) to occupied spaces below;
2. Patient's toilet room(s) be provided convenient to multipurpose room(s) and central bathing facilities;
3. Storage closets or cabinets for toys and for educational and recreational equipment shall be provided; and
4. Storage space shall be provided for replacement of cribs and beds to provide flexibility for interchange of patient accommodations.

## § 3.17. Psychiatric nursing unit.

A. Units intended for psychiatric nursing care shall be designed to facilitate care of ambulatory and non-ambulatory inpatients. Insofar as practical, provisions shall be made for flexibility in arranging various types of psychiatric therapy, and to present as noninstitutional an atmosphere as possible. The unit shall provide a safe environment for patients and staff.

B. Psychiatric units shall conform to the licensure requirements of the Department of Mental Health, Mental Retardation and Substance Abuse Services, Appendix A, Reference 15, insofar as they do not conflict with life safety requirements for the total hospital or affect patients care in other section of the hospital.

## § 3.18. Surgical facilities.

A. The number of operating room and recovery beds and the sizes of the service areas are based on the expected surgical workload and shall be located and arranged to preclude unrelated traffic through the suite.

B. Each general operating room shall have a minimum clear area of 360 square feet (33.45 sq. m), exclusive of fixed and movable cabinets and shelves, with a minimum dimension of 18'0" (5.49m) between two walls. Each room shall contain an emergency communications system connecting with the surgical suite control station and at least two X-ray film illuminators. Storage space for splints and traction equipment shall be provided for rooms equipped for orthopedic surgery.

C. Room(s) for surgical cystoscopic and other endoscopic procedures shall be designed to accommodate the types of procedures to be used but shall have not less than a minimum clear area of 250 square feet (23.23 sq. m), exclusive of fixed and movable cabinets and shelves. Each room shall contain an emergency communications system connecting with the surgical suite control station. Facilities for the disposal of liquid wastes shall be provided.

D. Recovery room(s) for post-anesthesia recovery of surgical patients shall be provided and shall contain a drug distribution station, handwashing facilities, charting facilities, clinical sink and storage space for supplies and equipment. Design space shall provide for at least 3'0" each side of each recovery bed. Separate and additional recovery space may be necessary to accommodate surgical outpatients.

E. Individual service rooms shall be provided when so noted, otherwise alcoves for other open spaces which will not interfere with traffic may be used. Services, except the soiled workroom and the janitors' closet may be shared with and organized as part of the obstetrical facilities. Service areas shall be arranged to avoid direct traffic between the operating and the delivery rooms. The following service areas shall be provided:

1. Control station located to permit visual surveillance of all traffic entering the operating suite;
2. Supervisor's office or station;
3. Sterilizing facilities with high speed autoclave(s) conveniently located to serve all operating rooms. When the program plan indicates that adequate provisions have been made for replacement of sterile instruments during surgery sterilizing facilities in the surgical suite will not be required;

4. Provision for a drug distribution station shall be made for the storage and preparation of medication;
5. At least two scrub stations shall be provided near the entrance to each operating room. Two scrub stations may serve two operating rooms if they are located adjacent to the entrance of each operating room. Scrub facilities shall be arranged to minimize any incidental splatter on nearby personnel or supply carts;
6. The soiled workroom shall be for the exclusive use of the surgical suite personnel and shall contain a clinical sink or equivalent flushing type fixture, work counter, handwashing lavatory, waste receptacle and linen receptacles;
7. Fluid waste disposal facilities shall be conveniently located to the general operating rooms. A clinical sink or equivalent equipment in a soiled workroom would meet this requirement;
8. A clean workroom is required when clean materials are assemble within the surgical suite prior to use. The clean workroom shall contain a work counter, handwashing lavatory and space for clean and steril supplies;
9. Anesthesia storage facilities unless official hospital board action prohibits, in writing, the use of flammable anesthetics a separate room shall be provided for storage of flammable gases in accordance with the requirements of NFPA 56A and NFPA 70;
10. Anesthesia workroom for cleaning, testing and storing anesthesia equipment shall contain a work counter and sink;
11. Medical gas supply with storage space for reserve nitrous oxide and oxygen cylinders shall be provided;
12. Equipment storage room(s) for equipment and supplies used in surgical suite;
13. Appropriate areas for staff clothing change shall be provided for personnel working within the surgical suite. The areas shall contain lockers, showers, toilets, handwashing lavatories and space for donning scrub suits and boots;
14. In facilities with two or more operating rooms, a room or alcove as a patient holding area shall be provided to accommodate stretcher patients waiting for surgery. This waiting area shall be under the visual control of the staff;
15. Stretcher storage area shall be out of direct line of traffic;
16. Lounge and toilet facilities for surgical staff shall be provided in hospitals having three or more operating rooms and shall be located to permit use without leaving the surgical suite. A staff toilet room shall be provided near the recovery room(s);
17. A janitor's closet containing a floor receptor or service sink and storage space for housekeeping supplies and equipment shall be provided exclusively for the surgical suite;

18. An outpatient surgery change area shall be provided where outpatients change from street clothing into hospital gowns and are prepared for surgery. This would include a waiting room, lockers, toilets and clothing change or gowning area; and

19. Provisions shall be made for separating inpatient and outpatient recovery where outpatients are not subjected to general anesthesia. This requirement may be satisfied by separated rooms or by scheduling of procedures.

## § 3.19. Labor and delivery facilities.

A. Existing hospitals with licensed obstetric and newborn services in operation prior to the effective date of these regulations or revisions thereof, shall comply with all of the regulations of this section with the exception of the minimum dimensions and square footage requirements for labor rooms and LDR/LDRP rooms provided in subsections D and E of this section. Existing hospitals may not decrease the dimensions of the labor rooms and LDR/LDRP rooms from what was specified in the regulations at the time the service, or parts thereof, was granted licensure approval. Labor rooms and LDR/LDRP rooms that are renovated at the time the service, or parts thereof, was granted licensure approval. Labor rooms and LDR/LDRP rooms that are renovated in existing hospitals or are newly constructed after the effective date of these regulations shall conform with all of the room dimensions specified in this solution.

B. The number of labor rooms, delivery rooms, recovery beds, and the sizes of the service areas shall depend upon the estimated obstetrical workload.

1. The labor and delivery suite shall be designed and arranged to assure separation of obstetrical patients from other types of patients and to preclude unrelated traffic through the suite.

2. Labor and delivery rooms shall be entirely separate from emergency and operating rooms.

C. Each delivery room shall have a minimum clear area of 300 square feet (27.87 sq. m) exclusive of fixed and movable cabinets and shelves. The minimum dimension shall be 16'0" (4.88 m) in any direction between two walls. Separate resuscitation facilities (electrical outlets, oxygen, suction, and compressed air) shall be provided for newborn infants.

D. Labor rooms shall be single-bed or two bed rooms with a minimum clear area of 180 square feet per bed. In facilities having only one delivery room, two labor rooms shall be provided one of which shall be large enough to function as an emergency delivery room with a minimum of 300 square feet. Labor rooms shall have at least two oxygen and two wall-mount suction outlets. Each labor room shall contain a handwashing lavatory. Each labor room shall have access to a toilet room. One toilet room may serve two labor rooms. At least one shower shall be provided for labor room patients without patients having to enter a corridor or general area. A water closet shall be accessible to the shower facility.

E. Hospitals, which include LDR/LDRP rooms in their obstetrical program, shall designate room(s) within the labor suite for this purpose. Such rooms(s) shall be designated and arranged to prohibit unrelated traffic through the labor and



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delivery suite. These rooms shall meet the requirements of a labor room which may be used as an emergency delivery room as specified in subsection D of this section. The minimal dimensions shall be 16'0" clear between walls or fixed cabinets or shelving. The rooms shall have a clear area of 300 square feet. Each LDR/LDRP room shall have access to a private water closet and shower. The water closet and shower may be shared by two rooms.

F. The recovery room shall contain a minimum of two beds, charting facilities located to permit staff to have visual control of all beds, facilities for medicine dispensing, handwashing facilities, clinical sink with bedpan flushing device, and storage for supplies and equipment.

G. Individual rooms shall be provided when so noted, otherwise, alcoves or other open spaces which will not interfere with traffic may be used. Service areas, except the soiled workroom and the janitors' closet, may be shared with in the obstetrical unit. If shared, service areas shall be arranged to avoid direct traffic between the delivery and operating rooms. The following services shall be provided:

1. Control station located to permit visual surveillance of all traffic which enters the labor and delivery suite;
2. Supervisor's office or station;
3. Sterilizing facilities with high speed autoclave(s) conveniently located to serve all delivery rooms. When provisions have been made for replacement of sterile instruments during a delivery, sterilizing facilities will not be required;
4. Provisions for a drug distribution station shall be made for storage, preparation, and dispensing of medication;
5. At least two scrub stations shall be provided near the entrance to each delivery room. Two scrub stations may serve two delivery rooms if they are located adjacent to the entrance of each delivery room. Scrub facilities shall be arranged to minimize any incidental splatter on nearby personnel or supply carts;
6. The soiled workroom shall be for the exclusive use of the labor and delivery room personnel and shall contain a clinical sink or equivalent flushing type fixture work counter, handwashing lavatory, waste receptacle and linen receptacle;
7. Fluid waste disposal facilities conveniently located to the delivery rooms. A clinical sink or equivalent in a soiled workroom or soiled holding room would meet this requirement;
8. A clean workroom shall contain a work counter, handwashing lavatory, and space for clean and sterile supplies;
9. Unless official hospital board action, in writing, prohibits use of flammable anesthetics a separate room shall be provided for storage of flammable gases in accordance with the requirements detailed in NFPA 99 and NFPA 70;
10. An anesthesia workroom for cleaning, testing and storing anesthesia equipment shall contain a work counter and sink;

11. A medical gas storage space for reserve storage of nitrous oxide and oxygen cylinders shall be provided;

12. Equipment storage room(s) for equipment and supplies used in the labor and delivery suite;

13. Appropriate staff's clothing change areas shall be provided personnel working within the labor and delivery suite. The areas shall contain lockers, showers, toilets, handwashing lavatories, and space for donning scrub suits and boots;

14. Lounge and toilet facilities for obstetrical staff and nurses shall be provided near the labor rooms and recovery room(s);

15. A janitor's closet containing a floor receptor or service sink and storage for housekeeping supplies and equipment shall be provided for the labor and delivery suite to be shared only with the newborn services unit;

16. The stretcher storage area shall be out of direct line of traffic;

### § 3.20. Outpatient and emergency suite.

A. Facilities for minimum emergency care shall be provided in each hospital as specified in subsection B of this section. Facilities for outpatient care shall be provided as required by the hospital program.

B. The extent of emergency patient care services planned for the hospital will depend upon community needs and availability of other organized programs for emergency care within the community. Hospitals what plan for a minimum level of emergency services shall provide at least an entrance, treatment room, and patient's toilet room convenient to the treatment room. Hospitals which have an organized program for emergency care must meet the following minimum requirements:

1. An entrance at grade level, sheltered from the weather, and with provision for ambulance and pedestrian access;
2. A reception and control area which is conveniently located near the entrance, waiting area and treatment rooms;
3. Public waiting space with toilet facilities, public telephone and drinking fountain;
4. Treatment rooms. Handwashing facilities shall be provided in each room or shall be conveniently adjacent to each room. The rooms shall contain cabinets, medication storage, work counter, suction outlets, x-ray film illuminators, and space for storage of emergency equipment such as emergency treatment trays, defibrillator, cardiac monitor and resuscitator;
5. Storage area out of line of traffic for stretchers and wheelchairs;
6. Staff work and charting area(s). This may be combined with reception and control area or located within the treatment room;
7. Clean supply storage. This may be a separate room or located within the treatment room;

8. Soiled workroom or area containing clinical work, work counter, handwashing lavatory, waste receptacle and linen receptacle; and

9. Patient toilet room convenient to treatment room(s).

C. The outpatient administrative, clinical, and diagnostic space will be determined by the types of services to be offered and the estimated patient load. The design of outpatient facilities should provide for the privacy and dignity of the patient during interview, examination, and treatment. The facilities shall be located so that outpatients do not pass through inpatient units. The following shall be provided or made available to the outpatient service:

1. The entrance shall be located at grade level, sheltered from weather, and able to accommodate wheelchairs.

2. The lobby shall include:

- a. Wheelchair storage space(s);
- b. Reception and information counter or desk;
- c. Waiting space(s);
- d. Public toilet facilities;
- e. Public telephones; and
- f. Drinking fountain(s).

3. An area for private interviews relating to social service, credit, and admissions.

4. General or individual office(s) shall be provided for business transactions, records, and administrative and professional staffs.

5. Storage space for employees' personal effects; and

6. Storage facilities for office supplies, sterile supplies, pharmaceutical supplies, splints and other orthopedic supplies and housekeeping supplies and equipment.

7. General and special purpose examination room(s). Each room shall have a minimum floor area of 80 square feet (7.43 sq. m), excluding such spaces as vestibule, toilet, closet and water counter (whether fixed or movable). Arrangement shall permit at least 2'8" (81 cm) clearance at each side and at the foot of the examination table. A handwashing lavatory and a counter or shelf space for writing shall be provided.

8. Treatment rooms. Each room used for minor surgical procedures and cast procedures shall have a minimum floor area of 120 square feet (11.15 sq. m), excluding such spaces as vestibule, toilet, closet and work counter (whether fixed or movable). The minimum room dimension shall be 10'0" (3.05 m) between two walls. A work counter, storage cabinets and a handwashing lavatory shall be provided.

9. Observation room(s). A room handling isolation, suspect, or disturbed patients shall be conveniently located to nurses' station or other control station. Patients shall have access to a toilet room without entering the general corridor area. A separate room is not required if an examination room is modified to accommodate this function.

10. Facilities for charting and for clinical records. A nurses station with work counter, communication system, and space for supplies shall be provided. A separate space may be omitted if these functions are accommodated in each examination room and each treatment room.

11. Drug distribution station. This area shall meet the requirements of § 3.11 C 7 of these regulations.

12. Clean workroom. The clean workroom shall meet the requirements of § 3.13 C 6 of these regulations.

13. Soiled workroom or soiled holding room. The soiled workroom shall contain clinical sink or equivalent flushing rim fixture, handwashing lavatory, work counter, waste receptacle, and linen receptacle. A soiled holding room that is part of a system for collection and disposal of soiled materials and shall be similar to the soiled workroom except that the clinical sink and the work counter may be omitted.

14. Stretcher storage space out of direct line of traffic.

D. Radiological facilities for diagnostic services shall be made available to the outpatient and emergency service. If a separate radiological unit is installed within the outpatient and emergency areas it shall comply with the requirements of § 3.21 of these regulations.

## § 3.21. Radiology suite.

Equipment for the radiology suite shall be provided for diagnostic purposes required by the hospital program. The suite shall contain the following elements:

- 1. Radiographic room(s). Radiation protection meet the requirements of § 3.40 V of these regulations;
- 2. Film processing facilities;
- 3. Viewing and administration area(s) with film storage facilities;
- 4. A toilet room with handwashing facilities which are directly accessible from each fluoroscopy room without entering the general corridor area;
- 5. A dressing area(s) with convenient access to toilets;
- 6. A waiting room or alcove for ambulatory patients;
- 7. A holding area for stretcher patients which is out of the direct line of normal traffic; and
- 8. Handwash facilities shall be provided in each radiographic room unless the room is used only for routine diagnostic screening such as for chest X-rays.

## § 3.22. Diagnostic laboratory suite.

A. Diagnostic laboratory facilities shall be provided for hematology, clinical chemistry, urinalysis, cytology, pathology, microbiology and bacteriology to meet the workload proposed in the hospital program. These services may be provided within the hospital or through a contract arrangement with a reference laboratory.

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B. If laboratory services are provided by contractual arrangement at least the following minimum services shall be available within the hospital:

1. A laboratory work counter(s) with sink, medical gases, and electrical services;
2. A lavatory(ies) or counter sink(s) equipped for handwashing;
3. Storage cabinet(s) or closet(s);
4. Blood storage facilities; and
5. Specimen collection facilities. Urine collection rooms shall be equipped with a water closet and handwashing lavatory. Blood collection facilities shall have a work counter, handwashing lavatory, and space for patient seating.

## § 3.23. Renal dialysis suite.

A. The following requirements include facilities for outpatient renal dialysis treatment. The number and type of treatment stations and the sizes of the service areas shall be based upon the projected patient load, the condition of the patients to be treated and the type of service to be provided. Inpatients will be housed in nursing units conforming to the requirements of § 3.11 of these regulations.

B. The treatment area shall contain the number of stations required by the program and shall include the following:

1. Patient treatment station areas shall have a minimum of 80 square feet (7.43 sq. m);
2. Cubicle curtains shall be provided around each treatment station for privacy;
3. Handwashing lavatories with knee or foot controls shall be provided at the rate of one for each six treatment stations;
4. Windows shall be provided conforming to requirements specified in § 3.40 of these regulations;
5. Patient toilet facilities shall be conveniently located to the treatment area and be equipped to accommodate the physically handicapped;
6. Patient locker facilities shall be provided for outpatients and be conveniently located to the treatment area; and
7. Provisions shall be made for the isolation or treatment of hepatitis B positive antigen patients.

C. The following service areas shall be located in or conveniently adjacent to the renal dialysis suite. The size and location of each service area will depend upon the number of patient stations served:

1. Nurses station shall be located to permit direct visual observation of each patient being treated. The station shall be provided with an emergency communication system connected to a central control station.
2. Charting facilities for nurses and doctors.
3. Lounge and toilet room(s) for staff.

4. Individual closets or compartments for the safekeeping of personal effects of nursing personnel. These shall be located convenient to the nurses station or in a central location.

5. Clean workroom. The clean workroom shall meet the requirements of § 3.11 C 5 of these regulations.

6. Soiled workroom. The soiled workroom shall meet the requirements of § 3.11 C 6 of these regulations.

7. Drug distribution station. This area shall meet the requirements of § 3.11 C 7 of these regulations.

8. Supply storage. A separate room for dialysis supplies shall be provided.

9. Equipment workroom and storage. A separate room shall be provided for the water treatment equipment and the repairs, adjustments, cleaning and sanitizing of dialysis equipment.

10. Nourishment station. This station shall meet the requirements of § 3.11 C 10 of these regulations. The station may be combined with or a part of the Clean Workroom on the Medication Station.

11. Janitor's closet. The janitor's closet shall meet the requirements of § 3.11 C 8 of these regulations.

D. A separate waiting area shall be provided for patients and family members and others bringing patients to and from the treatment facility or visiting with patients during treatment. A toilet room, public telephone, drinking fountain and seating accommodations shall be provided.

## § 3.24. Physical therapy suite.

Appropriate areas may be designed and arranged for shared use by occupational therapy patients and staff. If a physical therapy area is required by the hospital program, the following elements shall be provided:

1. Treatment area(s) shall be provided with the required space and equipment designed for the planned program and may include thermotherapy, diathermy, ultrasonics, and hydrotherapy;
2. Provisions shall be made for individual patient privacy, handwashing facilities and facilities for the collection of soiled linen and other material;
3. Exercise area;
4. Storage for clean linen, supplies, and equipment;
5. Toilet room equipped for the physically handicapped with water closet and handwashing lavatory;
6. Service sink; and
7. Wheelchair and stretcher storage.

## § 3.25. Occupational therapy suite.

The following appropriate areas may be designed and arranged for shared use by physical therapy patients and staff. If an occupational therapy suite is required by the hospital program, the following elements shall be provided:

1. The activities area shall include sink or lavatory and facilities for collection of waste products prior to disposal;
2. Storage for supplies and equipment; and
3. Toilet room equipped for the physically handicapped with water closet and handwashing lavatory.

## § 3.26. Inhalation therapy unit.

If an inhalation therapy unit is required by the hospital program, it shall be located convenient to the Intensive Care/Cardiac Care Unit and shall contain the following elements:

1. Office space including records file;
2. Storage for supplies and equipment;
3. Equipment servicing area; and
4. Separate soiled and clean workrooms which meet the requirements of §§ 3.11 C 5 and 3.11 C 6 of these regulations.

## § 3.27. Morgue and autopsy.

These facilities shall be designed for direct access to an outside entrance and shall be located to avoid movement of bodies through public use areas.

1. The following elements shall be provided when autopsies are performed within the hospital:
  - a. Work counter with handwashing lavatory;
  - b. Storage space for supplies, equipment, and specimens;
  - c. Autopsy table;
  - d. Clothing change area with shower, toilet, and lockers;
  - e. Janitor's service sink or receptacle; and
  - f. Refrigerated facilities for body-holding.
2. If autopsies are performed outside the hospital, only a well-ventilated body-holding room needs to be provided.

## § 3.28. Pharmacy suite.

The size and type of space to be provided in the pharmacy will depend upon the type of drug distribution system used in the hospital and whether the hospital proposes to provide, purchase, or share pharmacy services with other medical facilities. Provision shall be made for the following functional areas:

1. Dispensing area with handwashing lavatory;
2. Editing or order review area;
3. Sterile Products area. For the compounding of I.V. admixtures and other sterile products. May also be used for extemporaneous compounding;
4. Administrative areas. Office area for the pharmacist and any other personnel required for the proper maintenance of records and reports and for purchasing and accounting;

5. Storage areas. Areas for bulk, refrigeration, vault, volatile liquids storage shall be provided;

6. Drug information area;

7. Packaging area. Provide an area only if required by the hospital program;

8. Bulk compounding area. Provide an area only if required by the hospital program; and

9. Quality control area. An area is required only if either packaging or bulk compounding areas are provided.

## § 3.29. Dietary facilities.

A. Food service facilities shall be designed and equipped to meet the requirements of the hospital program. These may consist of areas for an on-site conventional food preparing system, a convenience food service system, or an appropriate combination of the two.

B. The following facilities shall be provided in the size required to implement the type of food service selected:

1. Control station for receiving food supplies;
2. Storage space for food supply including food requiring cold storage. At least 2 cubic feet of refrigerated storage per bed (0.05 cubic meter per bed) and 2 square feet of dry food storage per bed (0.7 sq. m per bed) shall be provided;
3. Food preparation facilities. Conventional food preparation systems require space and equipment for preparing, cooking, and baking. Convenience food service systems such as frozen prepared meals, bulk packaged entrees, and individual packaged portions, or systems using contractual commissary services require space and equipment for thawing, portioning, cooking, or baking;
4. Handwashing facility(ies) located in the food preparation area;
5. Patients meal service facilities such as, tray assembly and distribution;
6. Warehousing space located in a room or an alcove separate from food preparation and serving areas with commercial-type dishwashing equipment shall be provided. Space shall also be provided for receiving, scraping, sorting, and stacking soiled tableware and for transferring clean tableware to the using area. A handwashing lavatory shall be conveniently available to the area;
  - a. Energy saving dishwashing equipment may be used if the equipment is approved by the licensing agency prior to installation.
  - b. Potwashing facilities;
  - c. Sanitizing facilities and storage areas for cans, carts, and mobile tray conveyors. The sanitizing facilities may be combined with those required for linen services;
  - d. Waste storage facilities shall be provided in a separate room which is easily accessible to the outside for direct pickup or disposal;

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- e. Office or suitable work space for the dietitian or the food service supervisor;
- f. Toilets with handwashing lavatory which is for dietary staff conveniently accessible but does not open directly into food service areas;
- g. Janitors' closet located within the dietary department. The closet shall meet the requirements of § 3.11 C 8 of these regulations; and
- h. Icemaking facilities may be provided in areas separate from food preparation area but shall be easily cleanable and convenient to dietary facilities.

## § 3.30. Administration and public areas.

The following areas shall be provided:

- 1. The entrance shall be at grade level, sheltered from the weather, and able to accommodate wheelchairs.
- 2. The lobby shall include space for:
  - a. Storage for wheelchairs;
  - b. Reception and information counter or desk;
  - c. Waiting space(s);
  - d. Public toilet facilities;
  - e. Public telephones; and
  - f. Drinking fountain(s).
- 3. Space for private interviews relating to social service, credit, and admissions.
- 4. Space for business transactions, medical and financial records, and administrative and professional staffs.
- 5. Storage space for office equipment and supplies.

## § 3.31. Medical records service.

The following rooms or areas shall be provided:

- 1. Medical records administrator/technician office or space;
- 2. Review and dictating room(s) or spaces;
- 3. Work area for sorting, recording, or microfilming records; and
- 4. Storage area for records.

## § 3.32. Central services department.

The various elements shall be designed and arranged to provide one-way traffic pattern for supplies from soiled to clean to sterile. The following shall be provided:

- 1. Receiving and decontamination room. The room shall contain work space and equipment for cleaning medical and surgical equipment and for disposal of or processing unclean material. Handwashing facilities, lockers, showers, and toilets for staff shall be provided in this area if they are not available in adjacent employee facilities serving other soiled areas;

- 2. Clean workroom. The room shall contain work space and equipment for sterilizing and disinfecting medical and surgical equipment and supplies and handwashing facilities;
- 3. Storage areas for clean supplies and for sterile supplies. This area may be in clean workroom; and
- 4. Cart storage. This area shall meet the requirements of § 3.34 of these regulations.

## § 3.33. Linen service.

A. If linen is to be processed on the site, the following elements shall be designed and arranged to provide a one-way traffic pattern of linens from soiled processing to clean storage and include the following:

- 1. Soiled linen receiving, holding, and sorting room with handwashing facilities;
- 2. Laundry processing room with commercial type equipment and handwashing facilities. Energy saving laundry equipment may be considered if it is approved by the licensing agency prior to installation;
- 3. Storage for laundry supplies;
- 4. A janitors' closet which meets the requirements of § 3.11 C 8 of these regulations;
- 5. Clean linen inspection and mending room or area;
- 6. Clean linen storage, issuing, and holding room or area; and
- 7. Cart storage and sanitizing facilities which meet the requirements of § 3.34 of these regulations.

B. If linen is to be processed off-site the site, the following shall be provided:

- 1. Soiled linen holding room with a handwashing lavatory;
- 2. Clean linen receiving, holding, inspection, and storage room(s); and
- 3. Cart storage and sanitizing facilities which meet the requirements of § 3.34 of these regulations.

## § 3.34. Facilities for cleaning and sanitizing carts.

A. Facilities shall be provided to clean and sanitize carts serving the central services, dietary, and linen services. These may be centralized or departmentalized.

B. At a minimum, a separate area will be provided with a floor drain, a reel type spray hose with hot and cold water and a steam gun.

## § 3.35. General stores.

General stores shall include the following:

- 1. Offstreet unloading facilities;
- 2. Receiving area;
- 3. General storage rooms. A total area of not less than 20 square feet (1.86 sq. m) per inpatient bed shall be provided. General stores shall be concentrated in one area, but, in a multiple building complex, they may be in

separate concentrated areas in one or more individual buildings; and

4. Additional storage area for outpatient facilities. At least 5.0% of the total area of the outpatient facilities shall be provided. This area may be combined with the general stores or located within the outpatient department.

### § 3.36. Employees facilities.

In addition to the employees' facilities as locker rooms, lounges, toilets, or shower facilities called for in certain departments, a sufficient number of such facilities that may be required to accommodate the needs of all personnel and volunteers shall be provided.

### § 3.37. Janitors' closets.

In addition to the janitors' closets called for in certain departments, sufficient janitors' closets shall be provided throughout the hospital to maintain a clean and sanitary environment. Each closet shall meet the requirements of § 3.11 C 8 of these regulations.

### § 3.38. Engineering service and equipment areas.

The following shall be provided:

1. Room(s) or separate building(s) for boilers mechanical equipment and electrical equipment;
2. Engineer's office;
3. Maintenance shop(s);
4. Storage room for building maintenance supplies; and
5. A separate room or building for yard maintenance equipment and supplies.

### § 3.39. Waste processing service.

A. Space and facilities shall be provided for the sanitary storage and disposal of waste by incineration, mechanical destruction, sterilization, compaction, containerization, removal, or by a combination of these techniques.

B. A gas, electric, or oil fired incinerator shall be provided for the complete destruction of pathological and infectious waste. Infectious waste shall include, but shall not be limited to, dressings and material from open wounds, laboratory specimens, and all waste material from isolation rooms.

C. The incinerator shall be in a separate room or placed outdoors. Incinerators with a capacity of less than 50 pounds per hour may be locked in a separate area within the facility boiler room. In all cases, rooms and areas containing incinerators shall have space and facilities for cleaning.

D. Design and construction of incinerators and trash chutes shall be in accordance with NFPA Standard 82.

E. Incinerators shall be designed and equipped to conform to requirements prescribed by air pollution regulations for the community.

### § 3.40. Details and finishes.

A. Details and finishes in the design of new construction projects, including additions and alterations, shall comply with the following requirements. The nonconforming portions of

existing facilities, which because of financial hardship are not being totally modernized, shall comply with the safety requirements dealing with details and finishes as listed in NFPA Standard 101.

B. Compartmentation, exits, fire alarms, automatic extinguishing systems, and other details relating to fire prevention and fire protection shall comply with requirements listed in the NFPA Standard 101. Public corridors in outpatient suites need not be more than 5'0" (1.52 m) in width except in those areas which may be commonly used by hospital inpatients being transported in beds.

C. Items such as drinking fountains, telephone booths, vending machines, and portable equipment shall be located so as not to restrict corridor traffic or reduce the corridor width below the required minimum.

D. Rooms containing bathtubs, sitz baths, showers, and water closets, subject to occupancy by patients, shall be equipped with doors and hardware which will permit access from the outside in any emergency. When such rooms have only one opening or are small, the doors shall be capable of opening outwards or be otherwise designed to be opened without need to push against a patient who may have collapsed within the room.

E. The minimum width of all doors to rooms needing access for beds shall be 3'8" (1.12m) wide. Doors to rooms needing access for stretchers and to patient toilet rooms and other rooms needing access for wheelchairs shall have a minimum width of 2'10" (86.4cm).

F. Doors on all openings between corridors and rooms or spaces subject to occupancy, except elevator doors, shall be swing. Openings to showers, baths, patient toilets, and other small wet type areas not subject to fire rating are exempt from this requirement.

G. Doors, except those to spaces such as small closets which are not subject to occupancy, shall not swing into corridors in a manner that might obstruct traffic flow or reduce the required corridor width. Large walk in type closets are considered as occupiable spaces.

H. Windows and outer doors which may be frequently left in an open position shall be provided with insect screens.

I. Patient rooms intended for occupancy 24 hours a day shall have windows operable without the use of tools, except that windows in ICU and ICCU may be 60" (1.52m) above the floor. Windows in buildings designed with an engineered smoke control system in accordance with NFPA 90A are not required to be operable. Attention is called to the fact that natural ventilation possible with operable windows may in some areas permit a reduction in energy requirements.

J. Doors sidelights, borrowed lights, and windows in which the glazing extends down to within 18 inches (46cm) of the floor thereby creating possibility of accidental breakage by pedestrian traffic, shall be glazed with safety glass, wire glass, or plastic glazing material that will resist breaking and will not create dangerous cutting edges when broken. Similar materials shall be used in wall openings of recreation rooms and exercise rooms unless otherwise required for fire safety.

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Safety glass or plastic glazing materials shall be used for shower doors and bath enclosures.

K. Where labeled fire doors are required, these shall be certified by an independent testing laboratory as meeting the construction requirements equal to those for fire doors in NFPA Standard 80. Reference to a labeled door shall be construed to include labeled frame and hardware.

L. Elevator shaft openings shall have class B 1 1/2 hour labeled fire doors.

M. Linen and refuse chutes shall meet or exceed the following requirements (see § 3.38 of these regulations):

1. Service openings to chutes shall not be located in corridors or passageways but shall be located in a room of construction having a fire-resistance of not less than 1 hour. Doors to such rooms shall be not less than class C 3/4-hour labeled doors;
2. Service openings to chutes shall have approved self-closing class B 1 1/2-hour labeled fire doors;
3. Minimum cross-sectional dimension of gravity chutes shall be not less than 2'0" (61 cm);
4. Chutes shall discharge directly into collection rooms separate from incinerator, laundry, or other services. Separate collection rooms shall be provided for trash and for linen. The enclosure construction for such rooms shall have a fire-resistance of not less than 2 hours, and the doors thereto shall be not less than class B 1 1/2-hour labeled fire doors; and
5. Gravity chutes shall extend full diameter through the roof with provisions for continuous ventilation as well as for fire and smoke ventilation. Openings for fire and smoke ventilation shall have an effective area of not less than that of the chute cross-section and shall be not less than 4'0" (1.22m) above the roof and not less than 6'0" (1.83 m) clear of other vertical surfaces. Fire and smoke ventilating openings may be covered with single strength sheet glass.

N. Dumbwaiters, conveyors, and material handling systems shall not open directly into a corridor or exitway but shall open into a room enclosed by construction having a fire-resistance of not less than one hour and provided with class C 3/4-hour labeled fire doors. Service entrance doors to vertical shafts containing dumbwaiters, conveyors, and material handling systems shall be not less than class B 1 1/2-hour labeled fire doors. Where horizontal conveyors and material handling systems penetrate fire-rated walls or smoke partitions, such openings must be provided with class B 1 1/2-hour labeled fire doors with 2-hour walls and class C 3/4-hour labeled fire doors for 1-hour walls or partitions.

O. Thresholds and expansion joint covers shall be made flush with the floor surface to facilitate use of wheelchairs and carts. Expansion joints shall be constructed to restrict passage of smoke.

P. Grab bars shall be provided all patients' toilets, showers, tubs, and sitz baths. The bars shall have 1 1/2 inch (3.8 cm) clearance to walls and shall have sufficient strength and

anchorage to sustain a concentrated load of 250 pounds (113.4 kilograms).

Q. Soap dishes, towel bars and robe hooks shall be provided at showers and bathtubs.

R. Location and arrangement of handwashing facilities shall permit their proper use and operation. Particular care should be given to the clearances required for blade-type operating handles. (See § 3.45 B 2 of these regulations).

S. Mirrors shall not be installed at handwashing fixtures in food preparation areas or in sensitive areas such as nurseries, clean and sterile supplies, and scrub sinks.

T. Provisions for hand drying shall be included at all handwash facilities except scrub sinks.

U. Lavatories and handwashing facilities shall be securely anchored to withstand an applied vertical load of not less than 250 pounds (113.4 kilograms) on the front of the fixture.

V. Radiation protection requirements of X-ray and gamma ray installations shall conform with NCRP Reports Nos. 33, 49 and 51 and "Virginia Radiation Protection Regulations (VR 355-20-1)" of the Virginia Department of Health. Provision shall be made for testing the completed installation before use and all defects must be corrected before acceptance.

W. The minimum ceiling height shall be 8'0" (2.44m) with the following exceptions:

1. Boiler rooms shall have ceiling clearances not less than 2'6" (76 cm) above the main boiler header and connecting piping;
2. Radiographic, operating and delivery rooms, and other rooms containing ceiling-mounted equipment or ceiling mounted surgical light fixtures shall have height required to accommodate the equipment or fixtures;
3. Ceilings in corridors, storage rooms, toilet rooms, and other minor rooms shall be not less than 7'8" (2.34m); and
4. Suspended tracks, rails, and pipes located in the path of normal traffic shall be not less than 6'8" (2.03m) above the floor.

X. Recreation rooms, exercise rooms, and similar spaces where impact noises may be generated shall not be located directly over patient bed area, delivery or operating suites, unless special provisions are made to minimize such noise.

Y. Rooms containing heat producing equipment, such as boiler or heater rooms and laundries; shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature of 10°F (6°C) above the ambient room temperature.

Z. Noise reduction criteria shown in Table 1 of Appendix C, of these regulations shall apply to partition, floor, and ceiling construction in patient areas.

AA. Cubicle curtains and draperies shall be noncombustible or rendered flame retardant and shall pass both the large and small scale tests of NFPA Standard 701.

BB. Flame spread and smoke developed ratings of finishes are included in § 3.41 of these regulations. Whenever

possible, the use of materials known to produce large amounts of noxious gases shall be avoided.

CC. Floors in areas and rooms in which flammable anesthetic agents are stored or administered to patients shall comply with NFPA Standard 56A. Conductive flooring may be omitted from emergency treatment, operating, and delivery rooms when a written resolution is signed by the hospital board stating that no flammable anesthetic agents will be used in these areas and provided that appropriate notices are permanently and conspicuously affixed to the wall in each such area and room.

DD. Floor materials shall be easily cleanable and have wear resistance appropriate for the location involved. Floors in areas used for food preparation or food assembly shall be water and grease resistant. Joints in tile and similar material in such areas shall be resistant to food acids. In all areas frequently subject to wet cleaning methods floor materials shall not be physically affected by germicidal and cleaning solutions. Floors that are subject to traffic while wet (such as shower and bath areas, kitchens and similar work areas) shall have a nonslip, nonabrasive surface.

EE. Wall bases in kitchens, operating and delivery rooms, soiled workrooms, and other areas which are frequently subject to wet cleaning methods shall be made integral and coved with the floor, tightly sealed within the wall, and constructed without voids that can harbor insects.

FF. Wall finishes in kitchens, operating rooms, delivery rooms and in other sensitive treatment areas shall be washable and not affected by germicidal and cleaning solutions. Wall finishes in the immediate area of plumbing fixtures shall be moisture resistant. Finish, trim, and floor and wall construction in dietary and food preparation areas shall be free from spaces that can harbor rodents and insects.

GG. Floor and wall penetrations by pipes, ducts, and conduits shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.

HH. Ceilings shall be cleanable and those in sensitive areas such as surgical, delivery, and nursery rooms shall be readily washable and without crevices that can retain dirt particles. These sensitive areas along with the dietary and food preparation areas shall have a finished ceiling covering all overhead ductwork and piping. Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas, and similar spaces, unless required for fire-resistive purposes.

II. Acoustical ceilings shall be provided for corridors in patient areas, nurses stations, labor rooms, dayrooms, recreation rooms, dining areas, and waiting areas.

## § 3.41. Construction, including fire-resistive requirements.

A. Every building and every portion thereof shall be designed and constructed to sustain all dead and live loads in accordance with the Uniform Statewide Building Code and accepted engineering practices and standards, including seismic forces where they apply.

B. Foundations shall rest on natural solid bearing if a satisfactory bearing is available at reasonable depths. Proper

soil-bearing values shall be established in accordance with recognized standards. If solid bearing is not encountered at partial depths, the structure shall be supported on driven piles or drilled piers designed to support the intended load without detrimental settlement, except that one story buildings may rest on a fill designed by a soils engineer. When engineered fill is used, site preparation and placement of fill shall be done under the direct full-time supervision of the soils engineer. The soils engineer shall issue a final report on the compacted fill operation and certification of compliance with the job specifications. All footings shall extend to a depth not less than 1'0" (30.5 cm) below the estimated maximum frost line.

C. Construction shall be in accordance with the requirements of the Statewide Uniform Building Code and NFPA Standard 101 and the minimum requirements contained herein.

D. Separate freestanding buildings housing nonpatient areas such as the boiler plant, laundry, shops, or general storage may be of unprotected noncombustible construction, protected noncombustible construction, or fire-resistive construction.

E. Enclosures for stairways, elevator shafts, chutes and other vertical shafts, boiler rooms, and storage rooms of 100 square feet (9.29 square meters) or greater area shall be of construction having a fire-resistance rating of not less than two hours. Note that hazardous areas shall have rated enclosures and sprinklers as described in NFPA 101.

F. Interior finish materials shall comply with the flame spread limitations and the smoke production limitations and the smoke production limitations shown in Table 2, Appendix C of these regulations. If a separate underlayment is used with any floor finish materials, the underlayment and the finish material shall be tested as a unit or equivalent provisions made to determine the effect of the underlayment on the flammability characteristics of the floor finish material. Tests shall be performed by an independent testing laboratory. The above does not apply to minor quantities of wood or other trim (see NFPA 101) nor does it apply to wall covering less than 4 mil in thickness applied over a noncombustible base.

G. Building insulation materials, unless sealed on all sides and edges, shall have a flame spread rating of 25 or less and a smoke developed rating of 150 or less when tested in accordance with NFPA 255.

H. Special provisions shall be made in the design of buildings in regions where local experience shows loss of life or extensive damage to buildings resulting from hurricanes, tornadoes, floods, or earthquakes.

## § 3.42. Elevators.

A. All hospitals having patient facilities (such as bedrooms, dining rooms, or recreation areas) or critical services (such as operating, delivery, diagnostic, or therapy) located on other than the main entrance floor shall have electric or electrohydraulic elevators. Installation and testing of elevators shall comply with the National Elevator Code. The minimum number of elevators which must be provided, shall be as follows:



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1. At least one hospital-type elevator shall be installed where 1 to 59 patient beds are located on any floor other than the main entrance floor.

2. At least two hospital-type elevators shall be installed where 60 to 200 patient beds are located on floors other than the main entrance floor, or where the major inpatient services are located on a floor other than those containing patient beds. (Elevator service may be reduced for those floors which provide only partial inpatient services.)

3. At least three hospital-type elevators shall be installed where 201 to 350 patient beds are located on floors other than the main entrance floor, or where the major inpatient services are located on a floor other than those containing patient beds. (Elevator service may be reduced for those floors which provide only partial inpatient services.)

4. For hospitals with more than 350 beds, the number of elevators shall be determined from a study of the hospital design and the estimated vertical transportation requirements.

B. Cars of hospital-type elevators shall have inside dimensions that will accommodate a patient bed and attendants and shall be at least (1.52m) wide by 7'6" (2.29m) deep. The car door shall have a clear opening of not less than 4'0" (1.22m).

C. Elevators shall be equipped with an automatic leveling device of the two-way automatic maintaining type with an accuracy of + 1/2 inch (+ 1.3 cm).

D. Elevators, except freight elevators, shall be equipped with a two-way special service switch to permit cars to bypass all landing button calls and be dispatched directly to any floor.

E. Elevator controls, alarm buttons, and telephones shall be accessible to wheelchair occupants.

F. Elevator call buttons, controls, and door safety stops shall be of a type that will not be activated by heat or smoke.

G. Inspections and tests shall be made and the owner shall be furnished written certification that the installation meets the requirements set forth in this section and all applicable safety regulations and codes.

## § 3.43. General mechanical requirements.

A. Prior to completion and acceptance of the facility, all mechanical systems shall be tested, balanced, and operated to demonstrate to the owner or his representative that the installation and performance of these systems conform to the requirements of the approved plans and specifications.

B. Upon completion of the contract, the owner shall be furnished with a complete set of manufacturers' operating, maintenance, and preventive maintenance instructions, and parts lists and procurement information with numbers and description for each piece of equipment and be provided with instructions in the operational use of systems and equipment as required.

C. Insulation shall be provided within the building for the following:

1. Boilers, smoke breeching, and stacks;

2. Steam supply and condensate return piping;

3. Hot water piping above 120°F (49°C) and all hot water heaters, generators, and converters;

4. Chilled water, refrigerant, other process piping and equipment operating with fluid temperatures below ambient dew point;

5. Water supply and drainage piping on which condensation may occur;

6. Air ducts and casings with outside surface temperature below ambient dew point or temperature above 80°F (27°C); and

7. Other piping, ducts, and equipment as necessary to maintain the efficiency of the system. Insulation required above may be omitted from hot water and steam condensate piping not subject to contact by patients when the heat loss from such piping without insulation does not increase the energy requirements of the system. Insulation on cold surfaces shall include an exterior vapor barrier. Insulation, including finishes and adhesives on the exterior surfaces of ducts, pipes, and equipment, shall have a flame spread rating of 25 or less and a smoke developed rating of 50 or less as determined by an independent testing laboratory in accordance with NFPA 255. Linings in air ducts and equipment shall meet the Erosion Test Method described in Underwriters' Laboratories, Inc., Publication No. 181. These linings, including coatings and adhesives, and insulation in building spaces used as air supply plenums, shall have a flame spread rating of 25 or less and a smoke developed rating of 50 or less as determined by an independent testing laboratory in accordance with NFPA 255.

Duct linings shall not be used in systems supplying operating rooms, delivery rooms, recovery rooms, nurseries, isolation rooms, and intensive care units unless terminal filters of at least 90% efficiency are installed downstream of linings.

D. Boilers shall have the capacity, based upon the net ratings published by the Hydronics Institute, to supply the normal requirements of all systems and equipment. The number and arrangement of boilers shall be such that, when one boiler breaks down or routine maintenance requires that one boiler be temporarily taken out of service, the capacity of the remaining boiler(s) shall be sufficient to provide hot water service for clinical, dietary, and patient use; steam for sterilization and dietary purposes; and heating for operating, delivery, labor, recovery, intensive care, nursery, and general patient rooms, except that capacity for space heating is not required in areas with a design temperature of 20°F (-7°C) or more, based on the Median of Extremes in the ASHRAE Handbook of Fundamentals.

E. Boiler feed pumps, heating circulating pumps, condensate return pumps, and fuel oil pumps shall be connected and installed to provide normal and standby service.

F. Supply and return mains and risers of cooling, heating, and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment

shall be valved at the supply and return ends except that vacuum condensate returns need not be valved at each piece of equipment.

G. The designed capacity of the mechanical systems shall provide the temperatures and humidities in special areas as found in Table 3 of Appendix C of these regulations. For other areas occupied by inpatients the indoor winter design temperature shall be 75°F (24°C). (A minimum relative humidity of 30% is recommended but not required.) For all other occupied areas, the indoor winter design temperature shall be 72°F (22°C).

#### § 3.44. Ventilation system details.

A. All air-supply and air-exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system. The ventilation rates shown in Table 4, Appendix C of these Regulations shall be considered as minimum acceptable rates and shall not be construed as precluding the use of higher ventilation rates.

B. In the interest of energy conservation, the applicant is encouraged to utilize recognized procedures such as variable air volume and load shedding systems in areas not listed in Table 4, Appendix C and where direct patient care is not affected such as administrative and public areas, general storage, etc. Consideration may be given to special design innovations in areas of Table 4, Appendix C provided that pressure relationship as an indication of direction of air flow and total number of air changes as listed are maintained.

C. Outdoor intakes shall be located as far as practical but not less than 25'0" (7.62 m) from exhaust outlets of ventilating systems, combustion equipment stacks, medical-surgical vacuum systems, plumbing vents stacks, or from areas which may collect vehicular exhaust and other noxious fumes (plumbing and vacuum vents that terminate above the level of the top of the air intake may be located as close as 10'0" (3.05m). The bottom of outdoor air intakes serving central systems shall be located as high as practical but not less than 6'0" (1.83 m) above ground level, or if installed above the roof, 3'0" (91cm) above the roof level.

D. The ventilation systems shall be designed and balanced to provide the pressure relationship as shown in Table 4, Appendix C.

E. All air supplied to operating rooms, delivery rooms, and nurseries shall be delivered at or near the ceiling of the area served, and all return air from the area shall be removed near floor level. At least two return air outlets shall be used in each operating and delivery room.

F. Each space routinely used for the administering of inhalation anesthetizing agents shall be provided with a separate scavaging system for venting of waste anesthetizing gases. Pressure balance must be such that the gas collecting system does not interfere with required room pressure relationship or with breathing circuit that may affect patient safety. The intake shall be appropriately located in relation to the patient and the equipment designed so that gases are exhausted directly to the outside.

[ Potential Potentially ] harmful effects upon personnel subject to constant exposure to anesthetizing gases are

generally recognized but acceptable levels of concentration are unknown at this time. In the absence of specific figures, any scavaging system should be designed to remove as much of the anesthetizing gas as possible. Maximum effectiveness of the scavaging system may also require careful attention to selection and maintenance of anesthetizing equipment used.

G. The bottoms of ventilation (supply/return) openings shall be not less than three inches (7.6 cm) above the floor of any room.

H. Corridors shall not be used to supply air to or exhaust air from any room, except that air from corridors may be used to ventilate bathrooms, toilet rooms, janitors' closets, and small electrical or telephone closets opening directly on corridors provided that ventilation can be accomplished by undercutting of doors.

I. Isolation rooms and intensive care rooms may be ventilated by induction units if the induction units contain only a reheat coil and if only the primary air supplied from a central system passes through the reheat coil.

J. All central ventilation or air conditioning systems shall be equipped with filters having efficiencies no less than those specified in Table 5, Appendix C of these regulations. Where two filter beds are required, filter bed No. 1 shall be located upstream of the air conditioning equipment and filter bed No. 2 shall be downstream of the supply fan, any recirculating spray water systems, and water reservoir type humidifiers.

Where only one filter bed is required, it shall be located upstream of the air conditioning equipment unless an additional prefilter is employed. In this case, the prefilter shall be upstream of the equipment and the main filter may be located further downstream.

K. All filter efficiencies shall be average atmospheric dust spot efficiencies tested in accordance with ASHRAE Standard 52-76 except as noted in subsections U and V of this section.

L. Filter frames shall be durable and carefully dimensioned and shall provide an airtight fit with the enclosing ductwork. All joints between filter segments and the enclosing ductwork shall be gasketed or sealed to provide a positive seal against air leakage.

M. A manometer shall be installed across each filter bed serving sensitive areas or central air systems.

N. Air handling duct systems shall meet the requirements of NFPA Standard 90A, and those serving sensitive areas shall also comply with requirements for duct linings specified in § 3.43 C of these regulations.

O. Ducts which penetrate construction for intended X-ray or other ray protection shall not impair the effectiveness of the protection.

P. Fire and smoke dampers shall be constructed, located, and installed in accordance with the requirements of NFPA Standard 90A, except that all systems, regardless of size, which serve more than one smoke or fire zone, shall be equipped with smoke detectors to shut down fans automatically as delineated in paragraph 4-3.2 of that standard. Access for maintenance shall be provided at all dampers.

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Q. Switching for restart of fans may be conveniently located for fire department use to assist in evacuation of smoke after the fire is controlled, provided that provisions are made to avoid possible damage to the system because of closed dampers.

R. Supply and exhaust ducts which pass through a smoke separation of required compartmentation and through which smoke can be transferred to another area shall be provided with dampers at the separation controlled to close automatically to prevent flow of air or smoke when the fan, which moves the air through the duct, stops. Dampers shall be equipped with remote control reset devices except that manual reopening will be permitted if dampers are conveniently located.

S. Return air ducts which pass through a smoke separation of required compartmentation shall be provided with a damper at the separation actuated by smoke or products of combustion (other than heat) detectors. These dampers shall be operated by the detectors located to sense smoke in the return air duct from the smoke zone. On high velocity systems, a time delay is required so that fan will be stopped prior to damper closing. Engineered smoke exhaust systems may be considered for approval as described by NFPA on a case by case basis.

T. If the air changes required in Table 4, Appendix C of these regulations do not provide sufficient air for use by hoods and safety cabinets, the required makeup air shall be provided as necessary to maintain required room pressure relationship.

U. Laboratory hoods shall meet the following general requirements:

1. Have an average face velocity of not less than 75 feet per minute (0.38 meters per second);
2. Be connected to an exhaust system which is separate from the building exhaust system;
3. Have an exhaust fan located at the discharge end of the system; and
4. Have an exhaust duct system of noncombustible corrosion-resistant material as needed to meet the planned usage of the hood.

V. Laboratory hoods shall meet the following special requirements:

1. Each hood which processes infectious or radioactive materials shall have a minimum face velocity of 100 feet per minute (0.51 meters per second), shall be connected to an independent exhaust system, shall have filters with a 99.97% efficiency (based on the DOP, dioctyl-phthalate, test method) in the exhaust stream, and shall be designed and equipped to permit the safe removal, disposal, and replacement of contaminated filters; and
2. Duct systems serving hoods in which radioactive and strong oxidizing agents (e.g. perchloric acid) are used shall be constructed of chemical resistant materials and shall be equipped with washdown facilities.

W. Exhaust hoods in food preparation centers shall have an exhaust rate of not less than 50 cfm per square foot (0.25 cubic meters per second per square meter) of face area. Face

area is defined for this purpose as the open area from the exposed perimeter of the hood to the average perimeter of the cooking surfaces. All hoods over cooking ranges shall be equipped with grease filters, fire extinguishing systems, and heat-actuated fan controls. Cleanout openings shall be provided every 20'0" (6.10m) in horizontal exhaust duct system serving these hoods.

X. The ventilation system for anesthesia storage rooms shall conform to the requirements of NFPA Standard 56A, including the gravity option. The mechanically operated air systems required in this Section of regulations is optional in this room only.

Y. Boiler rooms shall be provided with sufficient outdoor air to maintain combustion rates of equipment and to limit temperatures in working stations to 97°F (36°C) Effective Temperatures (ET\*) as defined by ASHRAE Handbook of Fundamentals.

Z. See § 3.40 of these regulations for additional boiler room, food preparation center, and laundry ventilation requirements.

### § 3.45. Plumbing and other piping systems.

A. All plumbing systems shall be designed and installed in accordance with the requirements of the Statewide Uniform Building Code, article for "Health Care Facility Plumbing."

B. Plumbing fixtures shall comply with the following:

1. The material used for plumbing fixtures shall be of nonabsorptive acid-resistant material;
2. The water supply spout for lavatories and sinks required in patient care areas shall be mounted so that its discharge point is a minimum distance of five inches (12.7 cm) above the rim of the fixture. All fixtures used by medical and nursing staff and all lavatories used by patients and food handlers shall be trimmed with valves which can be operated without the use of hands (single lever devices may be used subject to above). Where blade handles are used for this purpose, they shall not exceed 4 1/2 inches (11.4 cm) in length, except that handles on scrub sinks and clinical sinks shall be not less than 6 inches (15.2 cm) long;
3. Clinical sinks shall have an integral trap in which the upper portion of a visible trap seal provides a water surface and shall be provided with a hose spray attachment with hot and cold water and a vacuum breaker;
4. Shower bases and tubs shall provide nonslip surfaces;
5. Bedpan flushing devices shall be provided in each patient toilet room, except those in ambulatory care areas;
6. Flush valves installed on plumbing fixtures shall be of a quiet operating type, equipped with silencers; and
7. Backflow preventers (vacuum breakers) shall be installed on hose bibbs; laboratory sinks, janitors' sinks, bedpan flushing attachments, autopsy tables, and on all other fixtures to which hoses or tubing can be attached.

C. Water supply systems shall conform to Virginia Health Department Waterworks Regulations (VR 355-18-000) in addition to the Statewide Plumbing Code and the following:

1. Systems shall be designed to supply water at sufficient pressure to operate all fixtures and equipment during maximum demand periods;
2. Each water service main, branch main, riser, and branch to a group of fixtures shall be valved. Stop valves shall be provided at each fixture; and
3. Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water at bathing and handwashing facilities shall not exceed 120°F (49°C).

D. The hot water heating equipment shall have sufficient capacity to supply water at the temperatures and amounts indicated in Table 6, Appendix C of these regulations. Water temperatures to be taken at hot water point of use or inlet to processing equipment. Storage tank(s) shall be fabricated of corrosion-resistant metal or lined with noncorrosive material.

E. Drainage systems shall conform to the following:

1. Drain lines from sinks in which acid wastes may be poured shall be fabricated from an acid-resistant material;
2. Drain lines serving automatic blood cell counters shall be of carefully selected material because of a possible undesirable chemical reaction between blood count waste which includes sodium azide, and plumbing system materials such as copper, lead, brass, and solder;
3. Insofar as possible, drainage piping shall not be installed within the ceiling nor installed in an exposed location in operating and delivery rooms, nurseries, food preparation centers, food serving food storage areas, and other critical areas. Special precautions shall be taken to protect these areas from possible leakage or condensation from overhead piping systems;
4. Floor drains shall not be installed in operating and delivery rooms. Flushing rim type floor drains may be installed in cystoscopic operating rooms; and
5. Building sewers shall discharge into a community sewerage system, or other approved system.

F. Nonflammable medical gas system installations shall be in accordance with the requirements of NFPA 56A and 56F. (See Table 7, Appendix C of these regulations for rooms which require station outlets.) As part of the project contract, where any piping or supply of medical gases is affected by change, alteration, or additions, the entire system shall be tested and certified as to type, quality, and quantity of medical gas at each outlet and exact areas affected by each control valve station.

G. Clinical vacuum (suction) system installations shall be in accordance with the requirements of Compressed Gas Association Pamphlet No. P-2.1. (See Table 7, Appendix C of these regulations for rooms which require station outlets.)

H. Service outlets for central housekeeping vacuum systems, if used, shall not be located within operating or delivery rooms.

I. All piping, including heating, ventilating, air conditioning (HVAC) shall be color coded or otherwise marked for easy identification.

## § 3.46. General electrical requirements.

A. All materials including conductors, controls and signaling devices shall be installed to provide a complete electrical system with the necessary characteristics and capacity to supply the electrical facilities shown in the specifications or indicated on the architectural drawings. All materials shall be listed as complying with available standards of Underwriters' Laboratories, Inc., or other similarly established standards.

B. All electrical installations and systems shall conform to the Statewide Uniform Building Code (National Electrical Code) and be tested to show that the equipment is installed and operates as planned or specified. A written record of performance tests on special electrical systems and equipment shall be supplied to the owner. Such tests shall show compliance with the governing codes including conductive floors, isolated power systems, grounding continuity, and alarm systems.

C. Circuit breakers or fusible switches that provide disconnecting means and overcurrent protection for conductors connected to switchboards and panelboards shall be enclosed or guarded to provide a dead-front type of assembly. The main switchboard shall be located in a separate enclosure accessible only to authorized persons. The switchboards shall be convenient for use, readily accessible for maintenance, clear of traffic lanes, and in a dry ventilated space free of corrosive fumes or gases. Overload protective devices shall be suitable for operating properly in the ambient temperature conditions.

D. Panelboards serving lighting and appliance circuits shall be located on the same floor as the circuits they serve.

## § 3.47. Lighting and receptacles.

A. All spaces occupied by people, machinery, and equipment within buildings, approaches to buildings, and parking lots shall have lighting.

B. Patients' rooms shall have general lighting and night lighting. A reading light shall be provided for each patient. Flexible light arms shall be mechanically controlled to prevent the bulb from coming in contact with bed linen. At least one light fixture for night lighting shall be switched at the entrance to each patient room. All switches shall be of the quiet operating type.

C. Operating and delivery rooms shall have general lighting in addition to local lighting provided by special lighting units at the operating and delivery tables. Each fixed special lighting unit at the tables, except for portable units, shall be connected to an independent circuit.

D. Nursing unit corridors shall have general illumination with provisions for reduction of light level at night.

E. Anesthetizing locations. Each operating and delivery room shall have at least three receptacles. In locations where mobile x-ray is used, an additional receptacle, distinctively marked for x-ray use, shall be provided. (See subsection G of

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this section for receptacle requirements when capacitive discharge mobile x-ray units are used.)

F. As a minimum, each patient room shall have duplex grounding type receptacles as follows: (i) one located on each side of the head of each bed; (ii) one for television, if used; and (iii) one on each other wall. Nurseries shall have not less than one duplex grounded receptacle for each bassinets. Receptacles in pediatric units shall be of the safety type or shall be protected by five milliamperes ground fault interrupters.

G. Duplex grounded receptacles for general use shall be installed approximately 50'0" (15.24 m) apart in all corridors and within 25'0" (7.62 m) of ends of corridors. Receptacles in corridors of pediatric units shall be of the safety type or shall be protected by five milliamperes ground fault interrupters or shall be controlled by switches located at a nurses' station or other supervised location. Single polarized receptacles marked for use of x-ray only shall be located in corridors of patient areas so that mobile equipment may be used in any location within a patient room without exceeding a cord length of 50'0" (15.24 m) attached to the equipment. If the same mobile x-ray unit is used in operating rooms and in nursing areas, all receptacles for x-ray use shall be of a configuration that one plug will fit the receptacles in all locations. Where capacitive discharge or battery-powered x-ray units are used, these polarized receptacles are not required.

## § 3.48. Equipment installation in special areas.

A. Installation in anesthetizing locations. All electrical equipment and devices, receptacles, and wiring shall comply with NFPA Standard 70, except that a line isolation monitor will be permitted, which alarms at a total hazard current of five milliamperes.

B. Fixed and mobile x-ray equipment installations shall conform to Article 517 of NFPA Standard 70.

C. At least two x-ray film illuminator units shall be installed in each operating room, emergency treatment room, and in the X-ray viewing room of the radiology department.

D. The electrical circuit(s) to equipment in wet areas shall be provided with five milliamperes ground fault interrupters. Where ground fault interrupters are used in critical areas, provision shall be made to ensure that other essential equipment will not be affected by a single interruption.

E. In areas such as intensive units (and special nurseries, when indicated by the program) where a patient may be treated with an internal probe or catheter connected to the heart, the ground system shall comply with Article 517-84, 517-86, and 517-88 of NFPA 70.

## § 3.49. Nurses' calling system.

A. In general patient areas, each room shall be served by at least one calling station and each bed shall be provided with a call button. Two call buttons serving adjacent beds may be served by one calling station. Calls shall register with floor staff and shall activate a visible signal in the corridor at the patient door, in the clean workroom, the soiled workroom, and the nourishment station of the nursing unit. In multicorridor nursing units, additional visible signals shall be installed at corridor intersections. In rooms containing two or more calling stations, indicating lights shall be provided at each station.

Nurses' calling systems which provide two-way voice communication shall be equipped with an indicating light at each calling station which lights and remains lighted as long as the voice circuit is operating.

B. A nurses' call emergency button shall be provided for patient use at each patient's toilet, bath, sitz bath, and shower room. Such a button shall be usable by a collapsed patient lying on the floor (inclusion of a pull cord will satisfy this item).

C. In areas such as intensive care where patients are under constant surveillance, the nurses' calling system may be limited to a bedside station that will activate a signal that can be readily seen by the nurse.

D. A nurses' emergency calling station which may be used by nurses to summon assistance shall be provided in each operating, delivery, recovery, emergency treatment, and intensive care room, in nurseries, renal dialysis units, and in supervised nursing units for mental patients.

## § 3.50. Emergency electrical system.

A. To provide electricity during an interruption of the normal electric supply, an emergency source of electricity shall be provided and connected to certain circuits for lighting and power. Where stored fuel is required, capacity shall be such as to permit continuous operation for at least 24 hours.

B. The source of this emergency electric service shall be as follows:

1. An emergency generating set when the normal service is supplied by one or more central station transmission lines.
2. An emergency generating set or a central station transmission line when the normal electric supply is generated on the premises.

C. The required emergency generating set, including the prime mover and generator, shall be located on the premises. The generator set shall be self-sufficient insofar as possible without dependency on public utilities that may be subject to cut off or outages. A system of prime movers which are ordinarily used to operate other equipment and alternately used to operate the emergency generators will be permitted provided that the number and arrangement of the prime movers are such that when one of them is out of service (due to breakdown or for routine maintenance) the prime movers can operate the required emergency generators, and provided that the connection time requirements of subsection E of this section are met.

D. Emergency electrical service shall be provided to the distribution systems as follows:

1. Circuits for the safety of patients and personnel:
  - a. Illumination of means of egress are as required in NFPA Standard 101.
  - b. Illumination for exit signs and exit directional signs as required in NFPA Standard 101 and basic task illumination for critical elements of equipment such as pumps, elevator machinery, generator sets, etc.

c. Alarm systems including fire alarms activated at manual stations, water flow alarm devices of sprinkler system if electrically operated, fire and smoke detecting systems, and alarms required for nonflammable medical gas systems if installed.

d. Paging or speaker systems if intended for communication during emergency. Radio transceivers where installed for emergency use shall be capable of operating for at least one hour upon total failure of both normal and emergency power.

e. General illumination and selected receptacles in the vicinity of the generator set.

2. Circuits essential to care, treatment, and protection of patients.

a. Task illumination and selected receptacles in infant nurseries; medicine dispensing areas; cardiac catheterization laboratories; angiographic laboratories; labor operating, delivery, and recovery rooms; dialysis units; intensive care areas; emergency treatment rooms; basic laboratory functions; and nurses' stations.

b. Corridor duplex receptacles in patient areas.

c. Nurses' calling system.

d. Blood bank refrigeration.

e. Equipment necessary for maintaining telephone service.

f. Each patient area in which life support systems are used shall have access to both normal and emergency power directly or by extension cords of not more than 50'0" (15.24m) in length.

3. Circuits which serve necessary equipment. The connection to the following emergency electric services shall be delayed automatic except for heating, ventilation, fire pump, and elevators which may be either delayed automatic or manual.

a. Equipment for heating the operating, delivery, labor, recovery, intensive care, renal dialysis, nursery, and general patient rooms, except that service for heating of general patient rooms will not be required under either of the following conditions: (i) if the design temperature is higher than 20°F (-7°C) based on the Median of Extremes as shown in the ASHRAE Handbook of Fundamentals, or (ii) if the hospital is served by two or more electrical services supplied from separate generators or a utility distribution network having multiple power input sources and arranged to provide mechanical and electrical separation so that a fault between the hospital and the generating sources will not likely cause an interruption of the hospital service feeders.

b. Elevator service that will reach every patient floor. Throwover facilities shall be provided to allow temporary operation of any elevator for the release of persons who may be trapped between floors.

c. Ventilation of operating and delivery rooms.

d. Central suction systems service serving medical and surgical functions.

e. Equipment which must be kept in operation to prevent damage to the building or its contents.

f. Fire pump if installed.

E. The emergency electrical system shall be so controlled that after interruption of the normal electric power supply, the generator is brought to full voltage and frequency. It must be connected within 10 seconds through one or more primary automatic transfer switches to emergency lighting systems; alarm systems; blood banks; nurses calling systems; equipment necessary for maintaining telephone service; and task illumination and receptacles in operating, delivery, emergency, recovery, and cardiac catheterization rooms, intensive care nursing areas, nurseries, renal dialysis unit, and other critical patient areas. All other lighting and equipment required to be connected to the emergency system shall either be connected through the above described primary automatic transfer switches or through other automatic or manual transfer switches. Receptacles connected to the emergency system shall be distinctively marked. Storage battery-powered lights provided to augment the emergency lighting or for continuity of lighting during the interim of transfer switching immediately following an interruption of the normal service supply, shall not be used as a substitute for the requirement of a generator. Where stored fuel is required for emergency generator operation, the storage capacity shall be sufficient for not less than 24-hour continuous operation.

F. Local codes and regulations may have additional requirements which should be considered.

G. Fire protection systems shall be provided as described in NFPA 101.

## PART IV.

### OUTPATIENT SURGICAL HOSPITALS: ORGANIZATION, OPERATION, AND DESIGN STANDARDS FOR EXISTING AND NEW FACILITIES

#### Article 1.

##### Organization and Management.

##### § 4.1. Governing authority.

A. Each outpatient surgical hospital shall have a governing body or other legal authority responsible for the management and control of the operation of the facilities.

B. There shall be disclosure of hospital ownership. Ownership interest shall be made known to the licensing agency and in the case of corporations, all individuals or entities holding 5.0% or more of total ownership shall be identified by name and address. The licensing agency shall be notified of any changes in ownership.

C. The governing body shall provide facilities, personnel, and other resources necessary to meet patient and program needs.

D. The governing body shall have a formal organizational plan with written bylaws, rules and regulations or their equivalent. These shall clearly set forth organization, duties, responsibilities, accountability, and relationships of professional staff and other personnel. The person or

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organizational body responsible for formulating policies shall be identified.

E. The bylaws, rules and regulations, or their equivalent, shall include at least the following:

1. A statement of purpose;
2. Description of the functions and duties of the governing body, or other legal authority;
3. A statement of authority and responsibility delegated to the chief administrative officer and to the medical staff;
4. Provision for selection and appointment of medical staff and granting of clinical privileges;
5. Provision of guidelines for relationships among the governing body, the chief administrative officer, and the medical staff.

F. The responsibility for administration and management of the outpatient surgical hospital shall be vested in an individual whose qualifications, authority and duties shall be defined in a written statement adopted by the governing body.

## Article 2. Policies and Procedures.

### § 4.2. General statement.

Policies and procedures may vary depending on scope and type of service, personnel, equipment and location of the facility. It is recognized that no two facilities will be identical because of variations in the scope and objective of the outpatient service. Even though each facility may be different, certain standards and procedures shall be applicable to all in assuring the delivery of a high quality of care.

### § 4.3. Policy and procedures manual.

A. Each outpatient surgical hospital shall develop a policy and procedures manual which shall include provisions covering the following items:

1. The types of emergency and elective procedures which may be performed in the facility.
2. Types of anesthesia which may be used.
3. Admissions and discharges, including criteria for evaluating the patient before admission and before discharge.
4. Written informed consent of patient prior to the initiation of any procedures.
5. Procedures for housekeeping and infection control.

B. A copy of approved policies and procedures and revisions thereto shall be made available to the licensing agency upon request.

## Article 3. Staffing.

### § 4.4. Medical staff.

The size and organizational structure of the medical staff will vary depending on the scope of service.

1. Professional and clinical services shall be supervised by a physician licensed to practice medicine or surgery in Virginia.

2. Surgical procedures shall be performed by a physician licensed to perform such procedures in Virginia.

3. Clinical privileges of physician and nonphysician practitioners shall be clearly defined.

4. Credentials including education and experience shall be reviewed and privileges identified, established, and approved for each person allowed to diagnose, treat patients or perform surgical procedures in accordance with guidelines, policies or bylaws adopted by the governing body and approved by the medical staff.

### § 4.5. Nursing staff.

The total number of nursing personnel will vary depending upon the number and types of patients to be admitted and the types of operative procedures to be performed or the services programmed.

1. A registered nurse qualified on the basis of education, experience, and clinical ability shall be responsible for the direction of nursing care provided the patients.

2. The number and type of nursing personnel, including registered nurses, licensed practical nurses, and supplementary staff, shall be based upon the needs of the patients and the types of services performed.

3. At least one registered nurse shall be on duty at all times while the facility is in use.

4. Job descriptions shall be developed for each level of nursing personnel and include functions, responsibilities, and qualifications.

5. Evidence of current Virginia registration required by state statute shall be on file in the facility.

## Article 4. Patient Care Services.

### § 4.6. Anesthesia service.

A. The anesthesia service shall be directed by and under the supervision of a physician licensed to practice medicine or surgery in Virginia.

B. The physician responsible for the anesthesia service shall be present for the administration of anesthetics and recovery of patients when any general or major regional anesthetic is used.

C. There shall be written procedures to assure safety in storage and use of inhalation anesthetics and medical gases.

D. Unless the hospital program and official written action by the governing body prohibit use of flammable anesthetics, the requirements of § 2.8 of these regulations must be met.

### § 4.7. Sterile supply services.

A. Adequate provisions shall be maintained for the processing, sterilizing, storing, and dispensing of clean and sterile supplies and equipment.

B. Written procedures shall be established for the appropriate disposal of pathological and other potentially infectious waste and contaminated supplies.

## § 4.8. Dietary service.

If the program calls for the dietary service, serving of snacks or other foods, adequate space, equipment, and supplies shall be provided. Applicable state and local codes pertaining to receiving, storage, refrigeration, preparation, and serving of food shall be followed.

## § 4.9. Evacuation plan.

A. Each outpatient surgical hospital shall develop a written evacuation plan to assure reasonable precautions are taken to protect patients, employees, and visitors from hazards of fire and other disaster. The evacuation plan shall provide:

B. A program to acquaint all personnel with evacuation procedures shall be maintained.

C. A copy of the plan and procedures shall be made available to the Bureau upon request.

## § 4.10. Emergency services.

A. Each outpatient surgical hospital shall provide emergency service and maintain on the premises adequate monitoring equipment, suction apparatus, oxygen, and related items necessary for resuscitation and control of hemorrhage and other complications.

B. A written agreement which ensures emergency transportation to a licensed general hospital shall be executed with an ambulance service.

C. A written agreement shall be executed with a general hospital to ensure that any patient of the outpatient surgical hospital shall receive needed emergency treatment. The agreement shall be within a licensed general hospital capable of providing full surgical, anesthesia, clinical laboratory, and diagnostic radiology service on 30 minutes notice and which has a physician in the hospital and available for emergency service at all times.

## § 4.11. Laboratory and pathology services.

A. Laboratory and pathology services each patient admitted to the outpatient surgical hospital shall receive appropriate laboratory testing.

B. All tissue removed shall be submitted for histological examination by a pathologist and a written report of his examination provided to the attending physician. The report of findings shall be filed in the patient's clinical record.

## § 4.12. Medical records.

A. Medical records. An accurate and complete clinical record or chart shall be maintained on each patient. The record or chart shall contain sufficient information to satisfy the diagnosis or need for the medical or surgical service. It shall include, when applicable, but not be limited to the following:

1. Patient identification;
2. Admitting information, including patient history and physical examination;

3. Signed consent;

4. Confirmation of pregnancy, if applicable;

5. Physician orders;

6. Laboratory tests, pathologist's report of tissue, and radiologist's report of x-rays;

7. Anesthesia record;

8. Operative record;

9. Surgical medication and medical treatments;

10. Recovery room notes;

11. Physician and nurses' progress notes,

12. Condition at time of discharge,

13. Patient instructions, preoperative and postoperative;

14. Names of referral physicians or agencies.

B. Provisions shall be made for the safe storage of medical records or accurate and legible reproductions thereof.

C. All medical records, either original or accurate reproductions, shall be preserved for a minimum of five years following discharge of the patient.

1. Records of minors shall be kept for at least five years after such minor has reached the age of 18 years.

2. Birth and death information shall be retained for 10 years in accordance with § 32.1-274 of the Code of Virginia.

3. Record of abortions and proper information for the issuance of a fetal death certificate shall be furnished the Division of Vital Records, Virginia Department of Health, within 10 days after the abortion.

## § 4.13. Preoperative admission.

A. Prior to the initiation of any procedure, a medical history and physical examination shall be completed for each patient.

B. Where medical evaluation, examination, and referrals are made from a private physician's office, another hospital, clinic, or medical service pertinent available records thereof shall be made and included as a part of the patient's medical record at the time the patient is admitted to the outpatient surgical hospital.

C. Sufficient time shall be allowed between initial examination and initiation of any procedure to permit the reporting and review of laboratory tests by the responsible physician.

D. In outpatient surgical hospitals which provide abortion services, the diagnosis of pregnancy shall be the responsibility of the physician performing the abortion procedure.

E. Outpatient surgical hospitals which provide abortion services shall offer each patient appropriate counseling and instruction in the abortion procedure and in birth control methods.

## § 4.14. Post-operative recovery.



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A. Each patient shall be observed for post-operative complications under the direct supervision of a registered professional nurse. Recovery room nurses shall have specialized training in resuscitation techniques and other emergency procedures consistent with policies and procedures of the institution for designated special units.

B. A physician licensed in Virginia shall be present on the premises at all times during the operative and post-operative period until discharge of the patient.

C. Patients shall be discharged from the recovery only on written order of the attending physician.

## § 4.15. Environment and maintenance.

A. All parts of the outpatient surgical hospital and its premises shall be kept clean, neat, and free of litter and rubbish.

B. Hazardous cleaning solutions, compounds, and substances shall be labeled, stored in a safe place, and kept in an enclosed section separate from other materials.

## § 4.16. Laundry services.

A. Each outpatient surgical hospital shall make provisions for the cleaning of all linens.

B. There shall be distinct areas for the separate storage and handling of clean and soiled linens.

C. All soiled linen shall be placed in closed containers prior to transportation.

## § 4.17. Physical plant: fire and safety; lighting and electrical; plumbing; sewage and waste disposal; water supply.

A. Each outpatient hospital shall establish a monitoring program for the internal enforcement of all applicable fire and safety laws and regulations.

B. Policies and procedures shall be established to minimize the hazards in the use and operation of all electrical equipment.

All electrical appliances used by the outpatient surgical hospital shall have the Underwriters Laboratories label or be approved by the local electrical inspection authority.

C. All plumbing material and plumbing systems or parts thereof shall meet the minimum requirements of the Uniform Statewide Building Code. All plumbing shall be installed in such a manner as to prevent back-siphonage or cross-connections between potable and nonpotable water supplies.

D. Existing and new facilities shall be connected to an approved sewage system.

E. Pathological and bacteriological wastes, dressings, and other contaminated wastes shall be incinerated in an approved incinerator or by other methods of disposal as approved by the licensing agency.

F. Water shall be obtained from an approved water supply system. The water shall be distributed to conveniently located taps and fixtures throughout the facility and shall be adequate in volume and pressure for all hospital purposes, including fire fighting.

## PART V.

### DESIGN STANDARDS FOR NEW OUTPATIENT SURGICAL HOSPITALS AND ADDITIONS AND ALTERATIONS TO EXISTING OUTPATIENT SURGICAL HOSPITALS.

#### Article 1.

##### General Considerations.

##### § 5.1. Narrative programs.

A. The owner or his representative shall provide a brief narrative which describes the functional space requirements, staffing patterns, departmental relationship, and other basic information relating to the fulfillment of the institution's objective.

B. The narrative shall indicate the manner in which the services are to be made available to the outpatients. When services are to be shared or purchased, appropriate modifications or deletions in space and equipment requirements shall be considered to avoid duplication. In many instances, minimum requirements are not intended in any way to restrict innovations and improvements in design or construction techniques. Plans and specifications which contain deviations from the requirements prescribed herein may be approved if it is determined that the purposes of the minimum requirements have been fulfilled. Request to waive any specific requirements shall be submitted to the licensing agency for approval prior to development of working drawings and specifications.

C. The extent (number and type) of the diagnostic, clinical, and administrative facilities to be provided shall be determined by the services contemplated and the estimated patient load as described in the narrative program.

##### § 5.2. Applicable requirements.

If the outpatient surgical hospital is a physical part of an inpatient hospital and is intended to serve inpatients as well as outpatients, the applicable requirements of Part II and Part III of these regulations must be met.

##### § 5.3. Parking.

In the absence of a formal parking study, vehicle parking for outpatient surgical hospitals shall be provided at the ratio of two parking spaces for each treatment room and each examining room plus sufficient parking spaces to accommodate the maximum number of staff on duty at one time. Exceptions may be made with approval of the licensing agency for outpatient surgical hospitals located in areas with high population density if adequate public parking is available or if the hospital is accessible to a public transportation system.

##### § 5.4. Codes; fire safety; zoning; conversions.

A. All construction of new buildings and additions alterations or repairs to existing buildings for occupancy as a "free-standing" outpatient hospital shall conform to state and local codes, zoning and building ordinances, and the Statewide Uniform Building Code requirements applicable to type of occupancy. All codes applicable to the outpatient surgical hospital shall be noted on the preliminary and working drawings.

B. Conversions of existing buildings to outpatient surgical hospital occupancy will be considered only in those buildings which meet or can be remodeled to meet the requirements of the Statewide Uniform Building Code.

## § 5.5. Site requirements and location.

A. The site shall meet local zoning regulations.

B. Facilities not located on the ground floor of a building shall be served by an elevator(s) capable of accommodating a standard stretcher.

C. Facilities shall be located in buildings providing emergency electrical service. The emergency electrical service may be provided by an auxiliary generator, or, if available from the power company, two separate lines, each supplied from a separate generating source. The emergency electrical service shall have the capability to cover at least the operating, procedure, and recovery room(s) lighting and electrical equipment.

D. The sanitation, water supply, sewage, and disposal facilities shall comply with the applicable state and local codes and ordinances.

E. Adequate fire protection facilities or fire department services shall be available.

## Article 2. Architectural Plan Review.

### § 5.6. General.

During the early phase of architectural planning, prime consideration shall be given to patient traffic from the patient parking area to admissions and through the service area to discharge offices and to areas for patient pick up. Personnel traffic patterns from other areas to the service area, as well as those related to internal operations, including supply distribution shall be considered.

### § 5.7. Drawings and specifications.

A. Preliminary drawings and outline specifications shall be submitted to the licensing agency with a program narrative description for review and approval prior to starting final working drawings and specifications.

B. The final working drawings and specifications shall be submitted to the licensing agency for review and approval prior to release of contract documents for bidding.

C. The licensing agency shall be notified of the award of contracts, of the date when construction has been completed, and at least 30 days prior to the estimated date of occupancy.

D. Minor alterations or remodeling changes which do not affect the structural integrity of the building, or change functional operation, or which do not affect safety, need not be submitted for approval.

E. The preparation and submission of drawings and specifications shall be executed by or under the immediate supervision of an architect registered in the Commonwealth of Virginia.

## Article 3. Design Requirements.

### § 5.8. Administration and public areas.

A. Entrance to the building shall be located at grade level, sheltered from the weather and able to accommodate wheelchairs, if applicable.

B. The same room may serve more than one function. The design shall assure that adequate space is available for all administrative services.

C. The reception area may be considered a part of administrative services. Adequate space near the entrance shall be provided for receiving and registering patients. Work space shall provide privacy for obtaining confidential information and discussing financial arrangements.

D. Adequate waiting space shall be provided for at least one family member or friend per patient. Facilities shall include public toilets, public telephone(s), drinking fountains(s), and wheelchair storage.

E. Adequate space to assure privacy for both males and females shall be provided in dressing rooms and patient lockers, toilet and bathing facilities, preoperative preparation, medication administration, and patient holding areas.

F. If the program calls for services requiring special patient counseling, private space shall be provided for this service.

G. Facilities and space may be provided for preparation of light nourishment, refrigeration and ice machine. Handwashing facilities shall be provided in the room.

H. Space for general storage for office supplies, sterile supplies, pharmacy and housekeeping supplies shall be provided.

I. Adequate janitor's closet(s) with floor receptor or service sink shall be provided.

### § 5.9. Clinical areas.

A. The size and design of units shall be in accordance with individual programs but the following basic elements shall be incorporated in all facilities, where applicable.

B. The plumbing, heating, and electrical systems for the surgical suite shall meet all applicable parts specified in § 3.18 of these regulations.

C. The architectural design of the facilities shall provide a sufficient number of rooms for the projected case load and types of procedures to be performed. Operating rooms shall have minimum dimensions of 16' X 18'. One smaller room may be reserved for minor local excisions but that room shall be no less than 160 square feet (14.88 sq. m).

D. Scrub sinks shall be provided. Scrub facilities shall be arranged to minimize any incidental splatter on nearby personnel or supply carts.

E. The locker and dressing areas shall be located so that personnel enter from uncontrolled areas and exit directly into the surgical suite. Locker space shall be provided for each employee, and a toilet, shower, and dressing area shall be provided in each personnel dressing room.

F. The recovery room shall have handwashing facilities, medication storage space, clerical work space, storage for

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clerical supplies, linens, and patient care supplies and equipment, and an adjoining toilet which shall have a water closet and handwashing lavatory.

G. The preoperative preparation area may be designed and equipped for examination. Each room shall have a handwashing lavatory and be equipped for patient examination.

H. Separate work and storage rooms shall be provided for clean and sterile holding and for instrument or equipment clean up functions.

I. Unless the narrative program and governing body prohibit, in writing, the use of flammable anesthetics a separate anesthesia storage room shall be provided for storage of flammable gases.

J. Anesthesia workroom and equipment storage facilities with adequate ventilation, work counter and sink shall be provided.

K. Sufficient clerical control stations shall be appropriately designed and located. Suitable space shall be provided for the following activities: (i) traffic control of the area; (ii) clerical functions related to room or case scheduling and record maintenance; (iii) personnel functions; and (iv) nursing activities related to medication administration and treatments.

L. Private and adequate space to accommodate the total number of doctors who may be dictating at the same time shall be provided. This space may be located adjacent to but not inside the nurses' station, lounge, or doctors' dressing area.

M. A janitor's closet which meets the requirements of § 3.18 E 17 of these regulations shall be provided.

## § 5.10. Laboratory and radiology services.

Space and equipment requirements shall be determined by the workload described in the narrative program. These services may be provided within the outpatient surgical hospital or through an effective contractual arrangement with nearby facilities. If laboratory or radiology services or both are not provided by contractual agreement all applicable parts of §§ 2.13 and 2.19 of these regulations shall apply.

## § 5.11. General requirements.

A. Minimum public corridor width shall be 5'0" (1.52m).

B. Each building shall have at least two exits remote from each other. Other details as to exits and fire safety shall be in accordance with the Virginia Statewide Fire Prevention Code (VR 394-01-6).

C. Items such as drinking fountains, telephone booths, vending machines and portable equipment shall be located so as not to restrict corridor traffic or reduce the corridor width below the required width.

D. Toilet rooms which may be used by patients shall be equipped with doors and hardware which will permit access from the outside in any emergency.

E. The minimum width of doors for patient access to examination and treatment rooms shall be 3'0" (.91m).

F. No door shall swing into a corridor in a manner that might obstruct traffic flow or reduce the required corridor width, except doors to space such as small closets which are not subject to occupancy.

G. Rooms containing ceiling mounted equipment and those have ceiling mounted surgical light fixtures shall have height required to accommodate the equipment or fixture. All other rooms shall have not less than 8'0" (2.43 m) ceiling except that corridors, storage rooms, toilet rooms and other minor rooms shall not be less than 7'8" (2.23 m).

H. Cubicle curtains and draperies shall be noncombustible or rendered flame retardant.

I. Floor materials shall be easily cleanable and have wear resistance appropriate for the location involved.

J. Wall finishes shall be washable and, in the immediate area of plumbing fixtures, shall be smooth and moisture resistant.

## APPENDIX A - REFERENCES FOR GENERAL AND SPECIAL HOSPITALS

Where reference is made to rules and regulations of the State Board of Health, the State Board of Pharmacy, or other agencies, boards, or departments of the Commonwealth of Virginia, it shall be construed to mean the most current edition of such rules and regulations as formally and lawfully adopted by such board, agency, or department after notice and public hearing pursuant to the applicable provisions of the Administrative Process Act, Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

1. VR 355-35-01. Rules and Regulations Governing Restaurants, Commonwealth of Virginia, Board of Health.

2. "Recommended Dietary Allowances," National Research Council, National Academy of Sciences, 2101 Constitution Avenue, Washington, D.C. 20418.

3. Rules and Regulations Pertaining to Ambulance Services, Commonwealth of Virginia, Board of Health.

4. "Hospitals Laboratories," National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.

5. "Accreditation Manual for Hospitals," Joint Commission on Accreditation of Hospitals, 645 North Michigan Avenue, Chicago, Illinois 60611.

6. "Protection of Records," National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.

7. VR 355-20-1. Virginia Radiation Protection Regulations, Commonwealth of Virginia, State Board of Health.

8. "Drug Control Act" (Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia) and VR 530-01-1. Regulations of the Board of Pharmacy Commonwealth of Virginia, Board of Pharmacy.

9. "Hospital Emergency Preparedness," National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts, 02210.

10. VR 355-28-100. "Rules and Regulations for the Reporting and Control of Diseases," Commonwealth of Virginia, State Board of Health.

## 11. Specified Organisms:

- Atypical mycobacteria
- Bacillus anthracis
- Campylobacter fetus
- Corynebacterium diphtheriae
- Mycobacterium tuberculosis
- Neisseria meningitidis
- Polioviruses
- Salmonella species
- Shigella species
- Vibrio cholerae
- Yersinia pestis

12. "Standards for Incinerators," National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.

13. VR 394-01-21 [ and VR 394-01-22 ]. Virginia Uniform Statewide Building Code, Commonwealth of Virginia, Department of Housing [ 1993. and Community Development. ]

## APPENDIX B - DESIGN STANDARDS FOR INPATIENT HOSPITALS

1. National Fire Protection Association (NFPA) Standard No. 80 "Standard for Fire Doors and Windows."
2. National Fire Protection Association (NFPA) Standard No. 90A "Installation of Air Conditioning and Ventilating Systems."
3. National Fire Protection Association (NFPA) Standard No. 101 "Life Safety Code."
4. National Fire Protection Association (NFPA) Standard No. 255 "Methods of Test of Surface Burning Characteristics of Building Materials."
5. National Fire Protection Association (NFPA) Standard No. 258 "Test Method for Measuring Smoke Generated by Solid Materials."
6. National Fire Protection Association (NFPA) Standard No. 701 "Flame Resistant Textiles and Films."
7. Underwriters' Laboratories, Inc. (UL) Standard No. 181 "Factory Made Air Duct Material and Air Duct Connectors."

These codes and standards can be obtained from the various agencies at the addresses listed below:

Air Conditioning and Refrigeration Institute  
1815 N. Ft. Myer Drive  
Arlington, Va. 22209

American National Standards Institute

1430 Broadway  
New York, N.Y. 10018

American Society for Testing Materials  
1916 Race Street  
Philadelphia, Pa. 19103

American Society of Heating, Refrigerating, and Air Conditioning United Engineering Center  
345 East 47th Street  
New York, N.Y. 10017

Compressed Gas Association  
500 Fifth Avenue  
New York, N.Y. 10036

Department of Housing and Community Development  
Building Regulatory Services  
(Statewide Uniform Building Code)  
[ 205 North Fourth Street  
Richmond, Virginia 23219  
Jackson Center  
501 N. 2nd Street  
Richmond, VA 23219-1321 ]

GSA Specification Consumer Information Distribution Branch  
Building 197  
Washington Navy Yard  
Washington, D.C. 20407

Hydronics Institute  
35 Russo Place  
Berkeley Heights, N.J. 07922

National Council on Radiation Protection and Measurement  
P.O. Box 30175  
Washington, D.C. 20014

National Fire Protection Association  
470 Atlantic Avenue  
Boston, Mass. 02210

Naval Publications and Form Center  
5801 Tabor Avenue  
Philadelphia, Pa. 19120

(For DOP Penetration Test Method) OHDS Publications  
Room A-311, HEW South Building  
Washington, D.C. 20201

Underwriters' Laboratories, Inc.  
353 Princeton Road  
Northbrook, Ill. 60062

## APPENDIX C - DESIGN TABLES FOR INPATIENT HOSPITALS

Table 1.  
SOUND TRANSMISSION LIMITATIONS FOR § 3.40

	AIRBORNE SOUND TRANSMISSIONS CLASS STC <sup>1</sup>		IMPACT INSULATION CLASS IIC <sup>2</sup>
	Partitions Floors		Floors
Patients' room to patients' room	45	45	45

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Public space to patients' room <sup>(3)</sup>	50	50	50 <sup>4</sup>
Service areas to patients' room <sup>5</sup>	55	55	55 <sup>4</sup>

<sup>1</sup>Sound transmission class (STC) shall be determined by tests in accordance with methods set forth in ASTM Standard E90 and ASTM Standard E413.

<sup>2</sup>Impact insulation class (IIC) shall be determined in accordance with criteria set forth in HUD FT/TS-24, "A Guide to Airborne, Impact and Structure Borne Noise. Control in Multi-Family Dwellings."

<sup>3</sup>Public space includes lobbies, dining rooms, recreation rooms, treatment rooms, and similar spaces.

<sup>4</sup>Impact noise limitation applicable only when corridor, public space, service area, or play or recreation area is over Patients' room.

<sup>5</sup>Service areas include kitchens, elevators, elevator machine rooms, laundries, garages, maintenance rooms, boiler and mechanical equipment rooms, and similar spaces of high noise. Mechanical equipment located on the same floor or above patients' rooms, offices, nurses' stations, and similar occupied spaces shall be effectively isolated from the floor.

NOTE: The requirement set forth in this table assumes installation methods which will not appreciably reduce the efficiency of the assembly as tested.

Table 2.  
FLAME SPREAD AND SMOKE PRODUCTION LIMITATIONS  
ON INTERIOR FOR §§ 3.40 and 3.41

Smoke Production Rating	Flame Spread Rating
Walls and Exitways, storage rooms Ceilings and areas of unusual fire hazard	ASTM Standard E84) 25 or less ) ) )
All other	ASTM Standard E84) ) NFPA 258
Floors* Corridors and means of egress	75 or less ) NFPA 254-1978 ) (Flooring Radiant ) 450 or less Panel Test ) Minimum of .45 ) watts/cm2

\* See subdivision 8 of § 3.4 for requirements relative to carpeting in areas that may be subject to use by handicapped individuals. Such areas include offices, waiting spaces, etc., as well as corridors that might be used by handicapped employees, visitors, or staff.

Table 3.  
TEMPERATURE AND HUMIDITIES FOR §§ 3.43 AND 3.44

Area Designation	Temperature °F °C	Relative Humidity(%) Min. Max.
Operating Rooms	68-76* 20-24*	50 60
Delivery Rooms	70-76* 21-24*	50 60
Recovery Rooms	75 24	50 60
Intensive Care Rooms	72-78* 22-26*	30 60
Nurseries Units	75 24	30 60

Special Care Nursery Unit	75-80* 24-27*	30 60
Other Inpatient Areas	75 24	30 60

\*Variable Range Required With Individual Room Control

Table 4.

**GENERAL PRESSURE RELATIONSHIPS AND VENTILATION OF CERTAIN  
AREAS FOR SECTION 3.44**

Area Designation	Pressure Relationship to Adjacent Areas	Minimum Air Changes of Outdoor Air per Hour Supplied to Room	Minimum <sup>3</sup> Total Air Changes per Hour Supplied to Room	All Air <sup>7</sup> Exhausted Directly to Outdoors	Recirculated within Room Units
Operating Room (for recirculating air system)	P	5	25	Optional	No <sup>4</sup>
Operating Room (all-outdoor-air system) <sup>6</sup>	P	15	15	Yes	No
Trauma Room	P	5	12	Optional	No <sup>4</sup>
Examination and Treatment Room	E	2	6	Optional	Optional
Delivery Room	P	5	12	Optional	No <sup>4</sup>
Nursery Unit	P	5	12	Optional	No <sup>4</sup>
Recovery Room	P	2	6	Optional	No <sup>4</sup>
Intensive Care	P	2	6	Optional	No <sup>4,5</sup>
Patient Room	E	2	2	Optional	Optional
Patient Room Corridor	E	2	2	Optional	Optional
Isolation Room	E	2	6	Yes	No <sup>5</sup>
Isolation Room-Alcove or Anteroom	E	2	10	Yes	No <sup>5</sup>
Examination Room	E	2	6	Optional	Optional
Medication Room	P	2	4	Optional	Optional
Pharmacy	P	2	4	Optional	Optional
Treatment Room	E	2	6	Optional	Optional
X-ray, Fluoroscopy	N	2	6	Yes	No
X-ray, Other Diagnostic Rooms	V	2	6	Optional	Optional
Physical Therapy and Hydrotherapy	N	2	6	Optional	Optional
Soiled Workroom or Soiled Holding	N	2	10	Yes	No
Clean Workroom or Clean Holding	P	2	4	Optional	Optional
Autopsy	N	2	12	Yes	No
Darkroom	N	2	10	Yes	No
Nonrefrigerated Body Holding Room	N	Optional	10	Yes	No
Toilet Room	N	Optional	10	Yes	No
Bedpan Room	N	Optional	10	Yes	No
Bathroom	N	Optional	10	Yes	No
Janitors' Closet	N	Optional	10	Yes	No
Sterilizer Equipment Room	N	Optional	10	Yes	No
Linen and Trash Chute Rooms	N	Optional	10	Yes	No
Laboratory, General <sup>1</sup>	N	2	6	Optional	Optional
Laboratory, Media Transfer <sup>2</sup>	P	2	4	Optional	No <sup>4</sup>
Food Preparation Centers	E	2	10	Yes	No
Warewashing	N	Optional	10	Yes	No
Dietary Day Storage	V	Optional	2	Optional	No
Laundry, General	V	2	10	Yes	No
Soiled Linen Sorting and Storage	N	Optional	10	Yes	No
Clean Linen Storage	P	Optional	2	Optional	Optional
Anesthesia Storage <sup>3</sup>	V	Optional	8	Yes	No
Central Services					
Soiled or Decontamination Room	N	2	6	Yes	No
Clean Workroom	P	2	4	Optional	Optional
Equipment Storage	V	Optional	2	Optional	Optional

P = Positive

N = Negative

E = Equal

V = May Vary

# Final Regulations

<sup>1</sup>See subsections T, U and V of § 3.44 for additional requirements.

<sup>2</sup>See § 3.44 T for additional requirements.

<sup>3</sup>See § 3.44 X for additional requirements.

<sup>4</sup>Recirculating room units meeting the filtering requirements for sensitive areas in subsections J, K, L and M of § 3.44 may be used.

<sup>5</sup>See § 3.44 I.

<sup>6</sup>For maximum energy conservation, use of a recirculated filtered air system is preferred. An all outdoor air system may be used where required by local codes provided that appropriate heat recovery procedures are utilized for exhaust air.

<sup>7</sup>Heat recovery systems should be utilized where appropriate especially for those areas where all air is required to be exhausted to the outside.

<sup>8</sup>Requirements for outdoor air changes may be deleted or reduced and total air changes per hour supplied may be reduced to 25% of the figures listed when the affected room is unoccupied and unused provided that indicated pressure relationship is maintained. In addition, positive provisions such as an interconnect with room lights must be included to insure that the listed ventilation rates including outdoor air are automatically resumed upon reoccupancy of the space. This exception does not apply to certain areas such as toilets and storage which would be considered as "in use" even though "unoccupied."

General note. The outdoor air quantities for central systems employing recirculating and serving more than a single area designation may be determined by summing the individual area air quantity requirements rather than by providing the maximum listed ratio of outdoor air to total air. This does not apply to sensitive nurseries and intensive care rooms.

Table 5.  
FILTER EFFICIENCIES FOR CENTRAL VENTILATION AND  
AIR CONDITIONING SYSTEMS FOR § 3.44

AREA DESIGNATION	MINIMUM NUMBER OF FILTER BEDS	FILTER EFFICIENCIES (%)	
		Filter No. 1	Filter No. 2
Sensitive Areas*	2	25	90
Patient Care, Treatment Diagnostic, and Related Areas	2	25	90**
Food Preparation Areas and Laundries	1	80	--
Administrative, Bulk Storage and Soiled Holding Areas	1	25	--

\* Includes operating rooms, delivery rooms, nurseries, recovery rooms, and intensive care units.

\*\* May be reduced to 80% for systems using all-outdoor air. Note: Ratings shall be with tolerance of ARI Standard 680.

Table 6.  
DOMESTIC HOT WATER CRITERIA FOR § 3.45

	Clinical	Dietary	Laundry
Gallons (per hour per bed)	6-1/2	4	4-1/2
Liters (second per bed)	.007	.004	.005
Temperature (°F)	110**	120*	160***
Temperature (°C)	43**	49*	71***

\*Rinse water temperature at automatic warewashing equipment shall be 180°F (82°C).

\*\*See § 3.45

\*\*\*Required temperature of 160°F (71°C) in the laundry is that measured in the washing machine and shall be supplied so that the temperature may be maintained over the entire wash and rinse period. Attention is called of the fact that control of bacteria in laundry processing is dependent upon a number of interrelated factors such as detergent, bleach, number of rinses and temperature. In most instances, maximum overall economies with acceptable results can be achieved with the use of 160°F (71°C) water. Lesser temperature may require excessive bleaching or other chemical treatment that would be damaging to fabrics.

Table 7.  
STATION OUTLETS FOR OXYGEN AND VACUUM  
SYSTEMS FOR SECTION 644

LOCATION	OXYGEN	VACUUM
Patient Room for adult medical, surgical, and post-partum care, and for pediatrics	A	A
Examination and treatment room for nursing unit	B	B
Patient room for intensive care	C	C
Nursery and pediatric nursery	A	A
General operating room	F	F
Cystoscopy and special procedure room	D	D
Recovery room for surgical and obstetrical patients	C	C
Delivery room	F	F
Labor room	A	A
Treatment room for emergency care	D	D
Autopsy room	-	D
Anesthesia workroom	-	D
Radiological procedure room	D	D

A - One outlet accessible to each bed. One outlet may serve two beds.

B - One outlet. Portable equipment for the administration of oxygen and suction may be considered acceptable in lieu of fixed outlets.

C - Two outlets for each bed or provide one outlet with Y-fitting.

D - One outlet.

E - One outlet for each bed.

F - Two outlets.

G - Three outlets.

VA.R. Doc. No. R95-416; Filed April 10, 1995, 1:25 p.m.

## DEPARTMENT OF LABOR AND INDUSTRY

### Safety and Health Codes Board

**REGISTRAR'S NOTICE:** The following regulations are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 4 (c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Safety and Health Codes Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** VR 425-02-54. Concrete and Masonry Construction - General Requirements, Construction Industry (1926.701).

**Statutory Authority:** § 40.1-22(5) of the Code of Virginia.

**Effective Date:** June 1, 1995.

**Agency Contact:** Copies of the regulation may be obtained from Bonnie H. Robinson, Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, VA 23219, telephone (804) 371-2631.

#### Summary:

*On August 9, 1994, federal OSHA published its revision of the construction industry safety standards which regulate fall protection systems and procedures (59 Fed. Reg. 40672). These systems and procedures are intended to prevent employees from falling off, onto or through working levels and to protect employees from falling objects. These standards corrected problems which arose during enforcement of the existing standards. They also consolidated and simplified many of the existing provisions.*

*As a result of the revisions to the construction industry fall protection standards in subpart M, § 1926.701, Concrete and Masonry Construction, General Requirements, Construction Industry, was amended. Paragraph (f)(2) of § 1926.701, Personal protective equipment, was removed along with the paragraph designation--(1).*

#### Note on Incorporation By Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Concrete and Masonry Construction - General Requirements Standard for the Construction Industry (1926.701) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in *The Virginia Register of Regulations*. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the Office of the Registrar of Regulations, General Assembly Building, Capitol Square, Room 262, Richmond, Virginia 23219.

On December 19, 1994, the Safety and Health Codes Board adopted federal OSHA's revised standard for Concrete and Mason Construction - General Requirements, Construction Industry, § 1926.701, which was published in the Federal Register, Vol. 59, No. 152, p. 40730, Tuesday, August 9, 1994, along with other revisions to standards regulating fall

protection systems and procedures. The amendments as adopted are not set out.

When the regulations as set forth in the Concrete and Masonry Construction - General Requirements, Construction Industry standard, § 1926.701, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

#### Federal Terms

29 CFR  
Assistant Secretary

Agency  
February 6, 1995

#### VOSH Equivalent

VOSH Standard  
Commissioner of Labor  
and Industry  
Department  
June 1, 1995

VA.R. Doc. No. R95-400; Filed March 31, 1995, 4:15 p.m





## COMMONWEALTH of VIRGINIA

JOAN W. SMITH  
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION  
General Assembly Building

910 CAPITOL STREET  
RICHMOND, VIRGINIA 23219  
(804) 786-3591

April 7, 1995

Mr. Charles B. Ashby, Chairman  
Virginia Safety and Health Codes Board  
Department of Labor and Industry  
13 South Thirteenth Street  
Richmond, Virginia 23219

Attn: John J. Crisanti, Director, Office of Enforcement Policy

Re: VR 125-02-54 Concrete and Masonry Construction  
General Requirements, Construction  
Industry (1926.701)

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joan W. Smith".

Joan W. Smith  
Registrar of Regulations

JWS/jbc  
Registrar/ed/Ex/Agm

\*\*\*\*\*

**Title of Regulation:** VR 425-02-63. Crane or Derrick Suspended Personnel Platforms, Construction Industry (1926.550-1926.556).

**Statutory Authority:** § 40.1-22(5) of the Code of Virginia.

**Effective Date:** June 1, 1995.

**Agency Contact:** Copies of the regulation may be obtained from Bonnie H. Robinson, Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, VA 23219, telephone (804) 371-2631.

## Summary:

*On August 9, 1994, federal OSHA published its revision of the construction industry safety standards which regulate fall protection systems and procedures (59 Fed. Reg. 40672). These systems and procedures are intended to prevent employees from falling off, onto or through working levels and to protect employees from falling objects. These standards corrected problems which arose during enforcement of the existing standards. They also consolidated and simplified many of the existing provisions.*

*As a result of the revisions to the construction industry fall protection standards in subpart M, § 1926.550, Cranes and Derricks, was amended. Paragraph (c)(2) of § 1926.550 was revised so that employees performing duties on the horizontal boom of hammerhead tower cranes are protected against falling by use of guardrails or by a personal fall arrest system in conformance with subpart M of Part 1926, instead of subpart E (Personal Protective and Life Saving Equipment). Paragraph (g)(4)(i)(C), Personnel Platforms, references criteria for guardrail systems and personal fall arrest systems as contained in subpart M, rather than subparts E and M.*

## Note on Incorporation By Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Crane or Derrick Suspended Personnel Platforms Standard for the Construction Industry (1926.550 through 1926.556) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in *The Virginia Register of Regulations*. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the Office of the Registrar of Regulations, General Assembly Building, Capitol Square, Room 262, Richmond, Virginia 23219.

On December 19, 1994, the Safety and Health Codes Board adopted federal OSHA's revision to the regulation for Crane or Derrick Suspended Personnel Platforms, Construction Industry, § 1926.550, which was published in the Federal Register, Vol. 59, No. 152, p. 40730, Tuesday, August 9, 1994, along with other revisions to standards regulating fall protection systems and procedures. The amendments as adopted are not set out.

When the regulations as set forth in the Crane or Derrick Suspended Personnel Platforms, Construction Industry Standard, § 1926.550, are applied to the Commissioner of the

Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

## Federal Terms

29 CFR  
Assistant Secretary

Agency  
February 6, 1995

## VOSH Equivalent

VOSH Standard  
Commissioner of Labor  
and Industry  
Department  
June 1, 1995

VA.R. Doc. No. R95-401; Filed March 31, 1995, 4:15 p.m.



## COMMONWEALTH of VIRGINIA

JOAN W. SMITH  
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION  
General Assembly Building

511 CAPITOL STREET  
RICHMOND, VIRGINIA 23219  
(804) 786-3591

April 7, 1995

Mr. Charles B. Ashby, Chairman  
Virginia Safety and Health Codes Board  
Department of Labor and Industry  
13 South Thirteenth Street  
Richmond, Virginia 23219

Attn: John J. Crisanti, Director, Office of Enforcement Policy

Re: VR 425-02-63 Crane or Derrick Suspended Personnel  
Platforms, Construction Industry  
(1926.550)

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joan W. Smith".  
Joan W. Smith  
Registrar of Regulations

JWS/jbc  
Registered Exempt

\*\*\*\*\*

Agency  
February 6, 1995

Department  
June 1, 1995

**Title of Regulation:** VR 425-02-89. Excavations Standards, Construction Industry (1926.650-1926.652).

**Statutory Authority:** § 40.1-22(5) of the Code of Virginia.

**Effective Date:** June 1, 1995.

**Agency Contact:** Copies of the regulation may be obtained from Bonnie H. Robinson, Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, VA 23219, telephone (804) 371-2631.

**Summary:**

*On August 9, 1994, federal OSHA published its revision of the construction industry safety standards which regulate fall protection systems and procedures (59 Fed. Reg. 40672). These systems and procedures are intended to prevent employees from falling off, onto or through working levels and to protect employees from falling objects. These standards corrected problems which arose during enforcement of the existing standards. They also consolidated and simplified many of the existing provisions.*

*As a result of the revisions to the construction industry fall protection standards in subpart M, § 1926.651 was amended by changing the section heading and paragraph (1) of § 1926.651. The heading was changed from "Fall protection" to the current heading, "Specific Excavation Requirements." Paragraph (1) now requires that guardrails be provided where walkways are 6 feet (1.8m) or more above lower levels when employees or equipment are required or permitted to cross over excavations.*

**Note on Incorporation By Reference**

Pursuant to § 9-6.18 of the Code of Virginia, the Excavations Standards for the Construction Industry (1926.650-1926.652) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in *The Virginia Register of Regulations*. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the Office of the Registrar of Regulations, General Assembly Building, Capitol Square, Room 262, Richmond, Virginia 23219.

On December 19, 1994, the Safety and Health Codes Board adopted federal OSHA's revised Excavations Standards, Construction Industry, § 1926.651, which was published in the Federal Register, Vol. 59, No. 152, p. 40730, Tuesday, August 9, 1994, along with other revisions to standards regulating fall protection systems and procedures. The amendments as adopted are not set out.

When the regulations as set forth in the Excavations Standards for the Construction Industry, § 1926.650 through 1926.652, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry



## COMMONWEALTH of VIRGINIA

JOAN W. SMITH  
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION  
General Assembly Building

310 CAPITOL STREET  
RICHMOND, VIRGINIA 23219  
(804) 796-3591

April 7, 1995

Mr. Charles B. Ashby, Chairman  
Virginia Safety and Health Codes Board  
Department of Labor and Industry  
13 South Thirteenth Street  
Richmond, Virginia 23219

Attn: John J. Crisanti, Director, Office of Enforcement Policy

Re: VR 425-02-89      Excavations Standards, Construction  
Industry, (1926.650 - 1926.652)

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joan W. Smith".

Joan W. Smith  
Registrar of Regulations

JWS/jbc  
Registered Professional

\*\*\*\*\*

Title of Regulation: VR 425-02-97. Electric Power Generation, Transmission and Distribution, General Industry (1910.269).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: June 1, 1995.

Agency Contact: Copies of the regulation may be obtained from Bonnie H. Robinson, Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, VA 23219, telephone (804) 371-2631.

Summary:

*As a result of the revised Fall Protection standard, a nonsubstantive change to paragraph (g)(2) of § 1910.269, Electric Power Generation, Transmission and Distribution, General Industry, now requires that personal fall arrest equipment meet the requirements of revised Subpart M, Part 1926, of the standard for Fall Protection, Construction Industry, rather than what was previously Subpart E.*

Note on Incorporation By Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Electric Power Generation, Transmission and Distribution for the General Industry (1910.269) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in *The Virginia Register of Regulations*. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the Office of the Registrar of Regulations, General Assembly Building, Capitol Square, Room 262, Richmond, Virginia 23219.

On December 19, 1994, the Safety and Health Codes Board adopted an identical version of federal OSHA's amendment to the final rule entitled "Electric Power Generation, Transmission and Distribution, General Industry," § 1910.269, which was published in the Federal Register, Vol. 59, No. 152, p. 40729, Tuesday, August 9, 1994, along with the final rules on Safety Standards for Fall Protection in the Construction Industry. The amendments as adopted are not set out.

When the regulations as set forth in the Electric Power Generation, Transmission and Distribution Standard for the General Industry, § 1910.269, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
February 6, 1995	June 1, 1995

V.A.R. Doc. No. R95-403; Filed March 31, 1995, 4:16 p.m.



## COMMONWEALTH of VIRGINIA

JOAN W. SMITH  
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION  
General Assembly Building

510 CAPITOL STREET  
RICHMOND, VIRGINIA 23219  
(804) 786-3551

April 7, 1995

Mr. Charles B. Ashby, Chairman  
Virginia Safety and Health Codes Board  
Department of Labor and Industry  
13 South Thirteenth Street  
Richmond, Virginia 23219

Attn: John J. Crisanti, Director, Office of Enforcement Policy

Re: VR 425-02-97      Electric Power Generation, Transmission  
and Distribution, General Industry,  
(1910.269)

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joan W. Smith".

Joan W. Smith  
Registrar of Regulations

JWS/jbc  
Register/Ed/Ex/Ag

\*\*\*\*\*

**Title of Regulation:** VR 425-02-113. Personal Protective and Life Saving Equipment, Construction Industry (1926.95-1926.107).

**Statutory Authority:** § 40.1-22(5) of the Code of Virginia.

**Effective Date:** June 1, 1995.

**Agency Contact:** Copies of the regulation may be obtained from Bonnie H. Robinson, Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, VA 23219, telephone (804) 371-2631.

**Summary:**

*On August 9, 1994, federal OSHA published its revision of the construction industry safety standards which regulate fall protection systems and procedures (59 Fed. Reg. 40672). These systems and procedures are intended to prevent employees from falling off, onto or through working levels and to protect employees from falling objects. The revised standard corrected problems which arose during enforcement of the existing standards. It also consolidated and simplified many of the existing provisions.*

*As a result of the revised fall protection standards, § 1926.104, Safety Belts, Lifelines, and Lanyards was removed; § 1926.105, Safety Nets, was removed and reserved; § 1926.105(b) was redesignated as § 1926.753; and in § 1926.107, Definitions Applicable to this Subpart, the following paragraphs were removed: (b) defining "Lanyard," (c) defining "Lifeline," and (f) defining "Safety belt."*

**Note on Incorporation By Reference**

Pursuant to § 9-6.18 of the Code of Virginia, the Personal Protective and Life Saving Equipment for the Construction Industry standard (1926.95-1926.107) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in *The Virginia Register of Regulations*. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the Office of the Registrar of Regulations, General Assembly Building, Capitol Square, Room 262, Richmond, Virginia 23219.

On December 19, 1994, the Safety and Health Codes Board adopted federal OSHA's revisions to the standards for Personal Protective and Life Saving Equipment, Construction Industry, §§ 1926.95 through 1926.107, which was published in the Federal Register, Vol. 59, No. 152, p. 40729, Tuesday, August 9, 1994, along with other revisions to standards regulating fall protection systems and procedures. The amendments as adopted are not set out.

When the regulations as set forth in the Personal Protective and Life Saving Equipment Standard for the Construction Industry, §§ 1926.95 through 1926.107, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

**Federal Terms**

29 CFR  
Assistant Secretary

Agency  
February 6, 1995

**VOSH Equivalent**

VOSH Standard  
Commissioner of Labor  
and Industry  
Department  
June 1, 1995

VA.R. Doc. No. R95-404; Filed March 31, 1995, 4:16 p.m.





## COMMONWEALTH of VIRGINIA

JOAN W. SMITH  
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION  
General Assembly Building

510 CAPITOL STREET  
RICHMOND, VIRGINIA 23219  
(804) 796-3591

April 7, 1995

Mr. Charles B. Ashby, Chairman  
Virginia Safety and Health Codes Board  
Department of Labor and Industry  
13 South Thirteenth Street  
Richmond, Virginia 23219

Attn: John J. Crisanti, Director, Office of Enforcement Policy

Re: VR 425-02-113 Personal Protective and Life Saving  
Equipment, Construction Industry,  
(1926.95 - 1926.107)

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

A handwritten signature in cursive script that reads "Joan W. Smith".

Joan W. Smith

JWS/jbc  
Registrar/EdL:agn

\*\*\*\*\*

VA.R. Doc. No. R95-405; Filed March 31, 1995, 4:17 p.m.

**Title of Regulation:** VR 425-02-175. Safety Nets, Construction Industry (1926.753).

**Statutory Authority:** § 40.1-22(5) of the Code of Virginia.

**Effective Date:** June 1, 1995.

**Agency Contact:** Copies of the regulation may be obtained from Bonnie H. Robinson, Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, VA 23219, telephone (804) 371-2631.

**Summary:**

*On August 9, 1994, federal OSHA published its revision of the construction industry safety standards which regulate fall protection systems and procedures (59 Fed. Reg. 40672). These systems and procedures are intended to prevent employees from falling off, onto or through working levels and to protect employees from falling objects. These standards corrected problems which arose during enforcement of the existing standards. They also consolidated and simplified many of the existing provisions.*

*As a result of the revisions to the fall protection standards, paragraph (a) of § 1926.105, Safety Nets, has been redesignated as the new § 1926.753 in Subpart R (Steel Erection). The section heading for § 1926.753 is now entitled Safety Nets. Section 1926.105 has been removed and reserved.*

**Note on Incorporation By Reference**

Pursuant to § 9-6.18 of the Code of Virginia, the Safety Nets, Construction Industry standard (1926.753) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in *The Virginia Register of Regulations*. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the Office of the Registrar of Regulations, General Assembly Building, Capitol Square, Room 262, Richmond, Virginia 23219.

On December 19, 1994, the Safety and Health Codes Board adopted federal OSHA's new standard for Safety Nets, Construction Industry, § 1926.753, which was published in the Federal Register, Vol. 59, No. 152, p. 40729, Tuesday, August 9, 1994, along with other revisions to standards regulating fall protection systems and procedures. The amendments as adopted are not set out.

When the regulations as set forth in the Safety Nets Standard for the Construction Industry, § 1926.753, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

**Federal Terms**

29 CFR  
Assistant Secretary  
  
Agency  
February 6, 1995

**VOSH Equivalent**

VOSH Standard  
Commissioner of Labor  
and Industry  
Department  
June 1, 1995



## COMMONWEALTH of VIRGINIA

JOAN W. SMITH  
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION  
General Assembly Building

910 CAPITOL STREET  
RICHMOND, VIRGINIA 23219  
(804) 786-3591

April 7, 1995

Mr. Charles B. Ashby, Chairman  
Virginia Safety and Health Codes Board  
Department of Labor and Industry  
13 South Thirteenth Street  
Richmond, Virginia 23219

Attn: John J. Crisanti, Director, Office of Enforcement Policy

Re: VR 425-02-175 Safety Nets, Construction Industry  
(1926.753)

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

A handwritten signature in cursive script that reads "Joan W. Smith".

Joan W. Smith

JWS/jbc  
Registered Expert

\*\*\*\*\*

Title of Regulation: VR 425-02-176. Power Transmission and Distribution, Construction Industry (1926.950-1926.960).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: June 1, 1995.

Agency Contact: Copies of the regulation may be obtained from Bonnie H. Robinson, Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, VA 23219, telephone (804) 371-2631.

Summary:

*On August 9, 1994, federal OSHA published its revision of the construction industry safety standards which regulate fall protection systems and procedures (59 Fed. Reg. 40672). These systems and procedures are intended to prevent employees from falling off, onto or through working levels and to protect employees from falling objects. These standards corrected problems which arose during enforcement of the existing standards. They also consolidated and simplified many of the existing provisions.*

*As a result of the revisions to the construction industry fall protection standards in subpart M, § 1926.951 entitled, "Tools and protective equipment," was amended. Paragraph (b)(4)(i) was revised so that lifelines and lanyards will comply with the provisions of § 1926.502, instead of § 1926.104 which has now been removed. Section 1926.502 provides the fall protection systems criteria and practices for part 1926.*

**Note on Incorporation By Reference**

Pursuant to § 9-6.18 of the Code of Virginia, the Power Transmission and Distribution, Construction Industry standard (1926.950 through 1926.960) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in *The Virginia Register of Regulations*. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the Office of the Registrar of Regulations, General Assembly Building, Capitol Square, Room 262, Richmond, Virginia 23219.

On December 19, 1994, the Safety and Health Codes Board adopted federal OSHA's revised standard for Power Transmission and Distribution, Construction Industry, § 1926.951, which was published in the Federal Register, Vol. 59, No. 152, p. 40730, Tuesday, August 9, 1994, along with other revisions to standards regulating fall protection systems and procedures. The amendments as adopted are not set out.

When the regulations as set forth in the Power Transmission and Distribution Standard for the Construction Industry, §§ 1926.950 through 1926.960, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

Federal Terms

29 CFR

VOSH Equivalent

VOSH Standard

Assistant Secretary

Agency  
February 6, 1995

Commissioner of Labor  
and Industry  
Department  
June 1, 1995

VA.R. Doc. No. R95-406; Filed March 31, 1995, 4:17 p.m.



## COMMONWEALTH of VIRGINIA

JOAN W. SMITH  
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION  
General Assembly Building

910 CAPITOL STREET  
RICHMOND, VIRGINIA 23219  
(804) 786-3591

April 7, 1995

Mr. Charles B. Ashby, Chairman  
Virginia Safety and Health Codes Board  
Department of Labor and Industry  
13 South Thirteenth Street  
Richmond, Virginia 23219

Attn: John J. Crisanti, Director, Office of Enforcement Policy

Re: VR 425-02-176 Power Transmission and Distribution,  
Construction Industry  
(1926.950 - 1926.960)

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

A handwritten signature in cursive script that reads "Joan W. Smith".

Joan W. Smith

JWS/jbc  
Registered Professional Signer

\*\*\*\*\*

**Title of Regulation:** VR 425-02-177. Fall Protection, Construction Industry (1926.500-1926.503).

**Statutory Authority:** § 40.1-22(5) of the Code of Virginia.

**Effective Date:** June 1, 1995.

**Agency Contact:** Copies of the regulation may be obtained from Bonnie H. Robinson, Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, VA 23219, telephone (804) 371-2631.

**Summary:**

*Federal OSHA revised the construction industry safety standards which regulate fall protection systems and procedures. These systems and procedures are intended to prevent employees from falling off, onto or through working levels and to protect employees from falling objects. The revised standard corrects problems which have arisen during enforcement of the existing standards. It also consolidates and simplifies many of the existing provisions.*

*Revised Subpart M requires employers to identify and evaluate fall hazards and it includes specific training requirements that clarify the existing general training provisions of § 1926.21 as they apply to fall protection.*

*This revision assures that employers will have clear and consistent direction as to what is necessary to protect employees from fall hazards.*

*Highlights of the fall protection standard:*

- *Sets a uniform threshold height of six feet for providing consistent protection. Fall protection can generally be provided through the use of guardrail systems, safety net systems or personal fall arrest systems. Where employers can demonstrate that it is infeasible or creates a greater hazard to use these systems, they must develop and implement a protection plan which specifies alternative fall protection measures.*
- *Prohibits the use of body belts as part of a personal fall arrest system as of January 1, 1998. In addition, only locking type snaphooks will be permitted for use in personal fall arrest systems and positioning systems as of the same date.*
- *Gives employers the flexibility to choose from various options to provide fall protection.*
- *Contains sample fall protection plans which can be used by precast concrete and residential construction contractors when they can demonstrate that conventional fall protection systems are infeasible or create a greater hazard.*

**Note on Incorporation By Reference**

Pursuant to § 9-6.18 of the Code of Virginia, the Fall Protection, Construction Industry standard (1926.500-1926.503) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in *The Virginia Register of Regulations*. Copies of the document are available for inspection at the Department of Labor and

Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the Office of the Registrar of Regulations, General Assembly Building, Capitol Square, Room 262, Richmond, Virginia 23219.

On December 19, 1994, the Safety and Health Codes Board adopted an identical version of federal OSHA's final rule entitled "Fall Protection, Construction Industry," §§ 1926.500 through 1926.503, which was published in the Federal Register, Vol. 59, No. 152, pp. 40730-40753, Tuesday, August 9, 1994, along with other revisions to regulations covering fall protection systems and procedures. The amendments as adopted are not set out.

When the regulations as set forth in the Fall Protection Standard for the Construction Industry, §§ 1926.500 through 1926.503, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

**Federal Terms**

29 CFR  
Assistant Secretary

Agency  
February 6, 1995

**VOSH Equivalent**

VOSH Standard  
Commissioner of Labor  
and Industry  
Department  
June 1, 1995

VA.R. Doc. No. R95-407; Filed March 31, 1995, 4:19 p.m.



## COMMONWEALTH of VIRGINIA

JOAN W. SMITH  
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION  
General Assembly Building

410 CAPITOL STREET  
RICHMOND, VIRGINIA 23219  
(804) 786-3591

April 7, 1995

Mr. Charles B. Ashby, Chairman  
Virginia Safety and Health Codes Board  
Department of Labor and Industry  
13 South Thirteenth Street  
Richmond, Virginia 23219

Attn: John J. Crisanti, Director, Office of Enforcement Policy

Re: V/R 425-02-177 Fall Protection, Construction Industry  
(1926.500 - 1926.503)

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joan W. Smith".

Joan W. Smith

MWS/jbc  
Registered Professional

DEPARTMENT OF MEDICAL ASSISTANCE  
SERVICES

**REGISTRAR'S NOTICE:** The following regulatory action is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 3 of the Code of Virginia, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** VR 460-03-2.6112. More Liberal Methods Under Social Security Act § 1902(r)(2) (REPEALED).

**Statutory Authority:** § 32.1-325 of the Code of Virginia.

**Effective Date:** June 1, 1995.

**Summary:**

*The purpose of repealing this regulation is to eliminate regulations that duplicate other agency regulations. The removal of this regulation is essential to avoid any potential policy conflicts resulting from duplicate regulations.*

*The section of the State Plan affected by this action is Attachment 2.6 A Supplement 12, More Liberal Methods Under Social Security Act §1902(r)(2) (VR 460-03-2.6112). This regulatory change does not represent a change in policy. It will simply eliminate a redundant regulation. When this agency originally promulgated its policy regarding more liberal methods of treating resources, it placed the policy in Supplement 12. The U.S. Health Care Financing Administration (HCFA) had not assigned a location for the policy at that time. Subsequently, HCFA issued mandatory formatting changes and requirements for multiple sections of the State Plan. The mandates required the policy that DMAS had placed in Supplement 12 to be placed in Supplement 8b. DMAS created the new Supplement 8b as required, and copied the text from Supplement 12. Supplement 12 should have been repealed at that time. The two supplements were identical until recent amendments were made to Supplement 8b but not to Supplement 12.*

*The advantage of this action for all parties is to avoid any potential policy conflicts regarding the treatment of resources. There are no disadvantages to regulated entities as a result of this action. The agency projects no negative issues involved in implementing this regulatory change. Because this action simply eliminates redundant regulations, there will be no affects as a result of this change. There are no localities which are uniquely affected by these regulations as they apply statewide.*

**Agency Contact:** Victoria P. Simmons or Roberta J. Jonas, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219, telephone (804) 371-8850.

VA.R. Doc. No. R95-419; Filed April 12, 1995, 11:11 a.m.



# EMERGENCY REGULATIONS

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**Title of Regulation:** State Plan for Medical Assistance  
Relating to 1995 Federal Poverty Income Guidelines.  
VR 460-03-2.6101:1. Income Eligibility Levels.

**Statutory Authority:** § 32.1-325 of the Code of Virginia.

**Effective Dates:** April 1, 1995, through March 31, 1996.

### Summary:

1. **REQUEST:** The Governor is hereby requested to approve this agency's adoption of the emergency regulation entitled 1995 Federal Poverty Income Guidelines. This regulation will update the State Plan to incorporate the 1995 Federal Poverty Income Guidelines as required by federal regulations.

2. **RECOMMENDATION:** Recommend approval of the Department's request to take an emergency adoption action regarding the 1995 Federal Poverty Income Guidelines. The Department intends to promulgate permanent regulations subject to requirements contained in the Code of Virginia § 9-6.14:1 et seq.

/s/ Robert C. Metcalf  
Director

Date: March 17, 1995

### 3. CONCURRENCES:

/s/ Kay Coles James  
Secretary of Health and Human Resources  
Date: March 30, 1995

### 4. ACTION:

Approve:

/s/ George Allen  
Governor

### 5. FILED WITH:

/s/ Joan W. Smith  
Registrar of Regulations  
Date: March 31, 1995

## DISCUSSION

6. **BACKGROUND:** The section of the State Plan affected by this action is Attachment 2.6 A Supplement 1, Income Eligibility Levels (VR 460-03-2.6101:1).

This amendment incorporates into the Plan the 1995 Federal Poverty Income Guidelines, as published by the U.S. Department of Health and Human Services (DHHS) in the February 9, 1995 Federal Register.

The Federal Register notice provided updated guidelines which are effective on the date of the Register publication. Sections 1902(l), 1902(l)(1)(D), 1902(m), and 1905(s) of the Social Security Act require states to base Medicaid eligibility on percentages of the Federal Poverty Income Guidelines for certain categories of eligible individuals.

1902(a)(10)(E)(iii)	Special Low Income Medicare Beneficiaries	110%
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1902(l)	Pregnant Women and Children Under Age 6	133%
1902(l)(1)(D)	Children born after 9/30/83 who have attained age 6 but have not attained age 19	100%
1902(m)	Qualified Medicare Beneficiaries	100%
1905(s)	Qualified Disabled and Working Individuals	200%

Each year when the annual Federal Poverty Income Guidelines are published, states must revise the financial eligibility income standards for the affected categories by incorporating the new income levels into the State Plan. Because the Federal Poverty Income Guidelines become effective the date they are published in the Federal Register, adoption of emergency regulations is necessary.

In addition, one technical correction is being made. Sections E and F of Supplement 1 to Attachment 2.6 A duplicate language contained in another portion of the State Plan. During recent format changes issued by HCFA, the policy represented in these sections was moved to Attachment 2.2 A, and now needs to be deleted from Supplement 1 to Attachment 2.6 A.

7. **AUTHORITY TO ACT:** The Code of Virginia (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services (BMAS) the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of Board action pursuant to the Board's requirements. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:4.1(C)(5), for an agency's adoption of emergency regulations subject to the Governor's prior approval. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, this agency intends to promulgate permanent regulations in accordance with the appropriate sections of the APA.

The Code of Federal Regulations § 430.12 requires that State Plans for Medical Assistance be kept up to date with federal requirements, as in the new Federal Poverty Income Guidelines. The Health Care Financing Administration (HCFA) published its 1995 Guidelines in the February 9, 1995 Federal Register.

Without an emergency regulation, this amendment to the State Plan cannot become effective until the publication and concurrent adoption period requirements of the APA are met. Therefore, an emergency regulation is needed to meet the April 1, 1995, effective date required to obtain federal approval.

8. **NEED FOR EMERGENCY ACTION:** The Code § 9-6.14:4.1(C)(5) provides for regulations which an agency finds are necessitated by an emergency situation. This issue qualifies as an emergency regulation as provided for in § 9-6.14:4.1(C)(5)(ii), because federal law requires this regulation be effective within 280 days from the enactment of the law or regulation. As such, this regulation may be adopted without public comment with the prior approval of the Governor. Since

# Emergency Regulations

this emergency regulation will be effective for no more than 12 months and the Director wishes to continue regulating the subject entities, the Department will be promulgating permanent regulations.

9. FISCAL/BUDGETARY IMPACT: The fiscal impact of increasing the Federal Poverty Income Guidelines is accounted for in the Utilization and Inflation Amendment to the Appropriations Act.

The changes to the income guidelines will affect the eligibility of the categories of individuals listed. Each year when the Federal Poverty Income Guidelines are increased, the eligibility income standards are also increased, allowing individuals with higher incomes to become eligible for Medicaid. There are no localities which are uniquely affected by these regulations as they apply statewide.

10. RECOMMENDATION: Recommend approval of this request to adopt this emergency regulation to become effective April 1, 1995. From its effective date, this regulation is to remain in force for one full year or until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the Department would lack the authority to implement the updated Guidelines in conformance with federal requirements.

## 11. APPROVAL SOUGHT FOR VR 460-04-8.5.

Approval of the Governor is sought for an emergency modification of the Medicaid State Plan in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the following regulation:

VR 460-03-2.6101:1. Income Eligibility Levels.

Supplement 1 to Attachment 2.6 A

Page 1 of 10

## A. MANDATORY CATEGORICALLY NEEDY

1. AFDC-Related Groups Other Than Poverty Level Pregnant Women and Infants:

<u>Family Size</u>	<u>Need Standard</u>	<u>Payment Standard</u>	<u>Maximum Payment Amounts</u>
See Table 1	See Table 2		
(appendices I, II, III)	(appendices I, II, III)		

2. Pregnant Women and Infants under 1902(a)(10)(i)(IV) of the Act:

Effective April 1, 1990, based on the following percent of the official Federal income poverty level--

☒ 133 percent ☐ \_\_\_\_\_ percent (no more than 185 percent) (specify)

<u>Family Size</u>	<u>Income Level</u>
1	\$ 9,789 9,935
2	\$13,087 13,340
3	\$16,386 16,745

4	\$10,684 20,150
5	\$22,982 23,554

\*\*\*

Supplement 1 to Attachment 2.6 A

Page 7 of 10

## C. QUALIFIED MEDICARE BENEFICIARIES WITH INCOMES RELATED TO FEDERAL POVERTY LEVEL

### 2. § 1902(f) STATES WHICH AS OF JANUARY 1, 1987 USED INCOME STANDARDS MORE RESTRICTIVE THAN SSI

\*VA DID NOT APPLY A MORE RESTRICTIVE INCOME STANDARD AS OF JANUARY 1, 1987

a. Based on the following percent of the official Federal income poverty level:

Eff. Jan. 1, 1989:	<input checked="" type="checkbox"/> 85 percent	<input type="checkbox"/> _____ percent (no more than 100)
Eff. Jan. 1, 1990:	<input type="checkbox"/> 85 percent	<input checked="" type="checkbox"/> 90 percent (no more than 100)
Eff. Jan. 1, 1991:	<input type="checkbox"/> 95 percent	<input checked="" type="checkbox"/> 100 percent (no more than 100)
Eff. Jan. 1, 1992:	100 percent	

b. Levels:

<u>Family Size</u>	<u>Income Level</u>
1	\$7,360 7,470
2	\$9,840 10,030

\*\*\*

Supplement 1 to Attachment 2.6A

Page 10 of 10

## E. ~~INCOME ELIGIBILITY LEVELS- MANDATORY GROUP OF SPECIFIED LOW INCOME MEDICARE BENEFICIARIES WITH INCOMES UP TO FEDERAL POVERTY LINE~~

~~The levels for determining income eligibility for groups of qualified Medicare beneficiaries under the provisions of § 1905(a)(10)(E) of the Act are as follows:~~

~~Based on 110 percent, and updated annually, of the official Federal nonfarm income poverty line:~~

<u>Size of Family Unit</u>	<u>Poverty Guideline</u>
1	\$ 8,096
2	\$10,824

## F. ~~INCOME ELIGIBILITY LEVELS- MANDATORY GROUP OF QUALIFIED DISABLED AND WORKING INDIVIDUALS WITH INCOMES UP TO FEDERAL POVERTY LINE~~

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## Emergency Regulations

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The levels for determining income eligibility for groups of qualified Disabled and Working Individuals under the provisions of § 1905(e) of the Act are as follows:

Based on 200 percent, and updated annually, of the official Federal nonfarm income poverty level:

<u>Size of Family Unit</u>	<u>Poverty Guideline</u>
<u>1</u>	<u>\$14,720</u>
<u>2</u>	<u>\$19,680</u>

VA.R. Doc. No. R95-399; Filed March 31, 1995, 3:52 p.m.

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# STATE CORPORATION COMMISSION

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## PROPOSED REGULATIONS

### STATE CORPORATION COMMISSION

#### Division of Securities and Retail Franchising

Title of Regulation: Securities Act Rules (Articles 2, 5 and 11).

Case No.: SEC950021.

Statutory Authority: §§ 12.1-13 and 13.1-523 of the Code of Virginia.

Notice to Interested Persons:

*The Virginia State Corporation Commission will consider adopting proposed changes to its rules promulgated under the Securities Act. The proposed changes are summarized below.*

*All of the existing Securities Act rules and various forms will be renumbered and reformatted in accordance with the style guidelines contained in the Virginia Register Form, Style and Procedure Manual (1995). In addition, substantive and technical changes are proposed to various current rules and forms, and three new rules are proposed.*

*Articles 2 and 11, Rules 206, 208, 214, 215, 221 and 1106 (Examination/Qualification): In addition to being renumbered, each of these rules will be changed to include a provision authorizing the Director of the Division of Securities and Retail Franchising, after notice and subject to review by the State Corporation Commission, to designate standard examinations that must be passed by applicants for registration.*

*Article 5, Rule 503 (Uniform Limited Offering Exemption): This rule will be renumbered as § 4 of Article 5. This registration exemption will be enlarged to include agents of the issuer who receive no sales commission for offering or selling the securities and who are not subject to the disqualification provisions of the rule.*

*Article 5, Rule 506 (Chicago Board Options Exchange exemption): This rule will be renumbered as § 7 of Article 5. The existing registration exemption will be repealed and replaced with a broader exemption that will include all securities listed on CBOE, securities that are senior to or of equal rank to a listed security, and warrants or rights to purchase such securities.*

*Article 5, Rule 507 ("Test-the-waters" exemption): This rule will be renumbered as § 8 of Article 5. This registration exemption will be enlarged to include agents of the issuer.*

*Article 5, § 9 (Philadelphia Stock Exchange exemption): This is a new rule to create a securities registration exemption for securities listed or approved for listing upon notice of issuance on Tier I of the Philadelphia Stock Exchange, securities that are senior to or of equal rank to a listed security, and warrants or rights to purchase such securities.*

*Article 5, § 10 (Pacific Stock Exchange exemption): This is a new rule to create a securities registration exemption for securities listed or approved for listing upon notice of issuance on Tier I of the Pacific Stock Exchange, securities that are senior to or of equal rank to a listed security, and warrants or rights to purchase such securities.*

*Article 5, § 11 (Issuer limited transactional exemption): This is a new rule to implement the 1995 amendment of § 13.1-514 B 7, which permits the State Corporation Commission to create by rule a limited transactional exemption applicable to issuers. Among other provisions, the exemption will include limitations on the amount of money that can be raised in the aggregate and in any 12-month period, limitations on the number of purchasers in any 12-month period, purchaser qualifications, disclosure requirements, provisions concerning issuers who are disqualified from using the exemption, and limitations on solicitation.*

*Article 8, Form S.A.3 (Affidavit for Waiver of Series 65 Examination): This form will be retitled to conform to changes to Rule 1106.*

*Article 8, Form S.D.4 (Renewal application for registration as agent of an issuer): This form will have superfluous language deleted and have other clarifying changes made.*

*Article 8, Form ADV (Uniform form for registration as an investment advisor): This form will be changed to incorporate Schedule H and related instructions adopted by the U.S. Securities and Exchange Commission, effective as of October 1, 1994.*

*Copies of these proposals are available from the State Corporation Commission, Division of Securities and Retail Franchising, P.O. Box 1197, Richmond, VA 23209-1197, (804) 371-9187, FAX (804) 371-9911. Written comments are invited. Any interested person who files objections to the proposed changes will, if so requested, be afforded an opportunity to present evidence and be heard in regard to such objections.*

*Comments and requests for hearing should be sent to the State Corporation Commission, Document Control Center, P.O. Box 2118, Richmond, VA 23216, and must be received by May 17, 1995. Documents filed in regard to the Securities Act Rules should refer to Case No. SEC950021. Interested persons who file objections and request to be heard, or who ask to be notified, will be notified of the date, time and place of the hearing.*

Securities Act Rules.

Article 2.

Broker-Dealers, Broker-Dealer Agents and Agents of the Issuer.

Rule-206 § 7. Examinations/qualifications.

A. Broker-dealers registered pursuant to § 15 of the federal Securities Exchange Act of 1934 (15 USC §§ 78a-78jj).

# State Corporation Commission

1. All principals of an applicant for registration as a broker-dealer must provide the commission with evidence of a minimum passing grade of 70% on the Uniform Securities Agent State Law Examination - Series 63 (USASLE-Series 63) or on a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of Securities and Retail Franchising designates.

2. In lieu of meeting the examination requirement described in subsection A.1. of this Rule subdivision 1 of this subsection A, at least two principals of an applicant may provide evidence of having passed the General Securities Principal Qualification Exam (Series 24) or on a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of Securities and Retail Franchising designates.

For the purposes of this subsection A, the term "principal" means any person associated with a broker-dealer who is engaged directly (i) in the management, direction or supervision on a regular or continuous basis on behalf of such broker-dealer of the following activities: sales, training, research, investment advice, underwriting, private placements, advertising, public relations, trading, maintenance of books or records, financial operations; or (ii) in the training of persons associated with such broker-dealer for the management, direction, or supervision on a regular or continuous basis of any such activities.

3. Subsection A of this Rule section is applicable only to principals of broker-dealers that are, or intend to forthwith become, registered pursuant to § 15 of the federal Securities Exchange Act of 1934.

B. Broker-dealers not registered pursuant to § 15 of the federal Securities Exchange Act of 1934.

1. All principals of an applicant for registration as a broker-dealer must provide the commission with evidence of a minimum passing grade of 70% on:

a. The Uniform Securities Agent State Law Examination - Series 63 (USASLE-Series 63); or on a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of Securities and Retail Franchising designates.

b. Any additional securities-related examination(s) that the commission deems appropriate in light of the business in which the applicant proposes to engage.

2. Subsection B of this Rule section is applicable only to principals of broker-dealers that are not, or do not intend to forthwith become, registered pursuant to § 15 of the federal Securities Exchange Act of 1934.

Rule 208 § 9. Application for registration as a broker-dealer agent.

A. Application for registration as a NASD member broker-dealer agent shall be filed on and in compliance with all

requirements of the NASAA/NASD Central Registration Depository system and in full compliance with the rules prescribed by the commission. The application shall include all information required by such forms.

An application shall be deemed incomplete for purposes of applying for registration as a broker-dealer agent unless the following executed forms, fee and information are submitted:

1. Form U-4 (adopted by Rule 800).

2. The statutory fee in the amount of \$30. The check must be made payable to the NASD.

3. Provide evidence in the form of a NASD exam report of obtaining a minimum passing grade of 70% on the Uniform Securities Agent State Law Exam, "USASLE," Series 63 exam—(Rule 214) or on a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of Securities and Retail Franchising designates. (Art. 2, § 15)

4. Any other information the commission may require.

B. Application for registration for all other broker-dealer agents shall be filed on and in compliance with all requirements and forms prescribed by the commission.

An application shall be deemed incomplete for purposes of applying for registration as a broker-dealer agent unless the following executed forms, fee and information are submitted:

1. Form U-4 (adopted by Rule 800).

2. The statutory fee in the amount of \$30. The check must be made payable to the Treasurer of Virginia.

3. Provide evidence in the form of a NASD exam report of obtaining a minimum passing grade of 70% on the Uniform Securities Agent State Law Exam, "USASLE," Series 63 exam—(Rule 214) or on a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of Securities and Retail Franchising designates. (Art. 2, § 15)

4. Any other information the commission may require.

C. The commission shall either grant or deny each application for registration within 30 days after it is filed. However, if additional time is needed to obtain or verify information regarding the application, the commission may extend such period as much as 90 days by giving written notice to the applicant. No more than three such extensions may be made by the commission on any one application. An extension of the initial 30-day period, not to exceed 90 days, shall be granted upon written request of the applicant.

Rule 214 § 15. Examination/qualification.

An individual applying for registration as a broker-dealer agent shall be required to show evidence of passing the Uniform Securities Agent State Law Examination (USASLE-Series 63) or a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of

*Securities and Retail Franchising designates with a minimum grade of 70%.*

**Rule 215 § 16.** Application for registration as an agent of the issuer.

A. Application for registration as an agent of the issuer shall be filed on and in compliance with all requirements and forms prescribed by the commission.

B. An application shall be deemed incomplete for purposes of applying for registration as an agent of the issuer unless the following executed forms, fee and information are submitted:

1. Form U-4.
2. The statutory fee in the amount of \$30. The check must be made payable to the Treasurer of Virginia.
3. Completed Agreement for Inspection of Records Form.
4. Provide evidence in the form of a NASD exam report of obtaining a minimum passing grade of 70% on the Uniform Securities Agent State Law Exam, "USASLE", Series 63 exam—(Rule 224) or on a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of Securities and Retail Franchising designates. (Art. 2, § 22)
5. Any other information the commission may require.

C. The commission shall either grant or deny each application for registration within 30 days after it is filed. However, if additional time is needed to obtain or verify information regarding the application, the commission may extend such period as much as 90 days by giving written notice to the applicant. No more than three such extensions may be made by the commission on any one application. An extension of the initial 30-day period, not to exceed 90 days, shall be granted upon written request of the applicant.

**Rule 224 § 22.** Examination/qualification.

An individual applying for registration as an agent of the issuer shall be required to provide evidence in the form of a NASD exam report of passing the Uniform Securities Agent State Law Examination (USASLE-Series 63) or a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of Securities and Retail Franchising designates with a minimum grade of 70%.

## Article 5.

### Exempt Securities- Exemptions.

**Rule 503 Uniform Limited Offering Exemption.**

**§ 4. Uniform limited offering exemption.**

#### Preliminary Notes

4. A. Nothing in this exemption is intended to relieve, or should be construed as in any way relieving, issuers or persons acting on their behalf from providing disclosure to prospective investors adequate to satisfy the anti-fraud provisions of the Act.

2. In view of the objective of this rule and the purpose and policies underlying the Act, this exemption is not available to any an issuer with respect to any a transaction which, although in technical compliance with this rule is part of a plan or scheme to evade registration or the conditions or limitations explicitly stated in this rule.

3. Nothing in this rule is intended to exempt registered broker-dealers or agents from the due diligence standards otherwise applicable to such registered persons.

4. Nothing in this rule is intended to exempt any a person from the broker-dealer or agent registration requirements of the Act, Article 3 (§ 13.1-504 et seq.) of Chapter 5 of Title 13.1 of the Code of Virginia, except in the case of an agent of the issuer who receives no sales commission directly or indirectly for offering or selling the securities and who is not subject to subdivision B 2 below.

## RULE

B. For the purpose of the limited offering exemption referred to in Section 43-1-514 B-13 § 13.1-514 B 13 of the Act, the following securities are determined to be exempt from the securities registration requirements of the Act, Article 4 (§ 13.1-507 et seq.) of Chapter 5 of Title 13.1 of the Code of Virginia:

A. Any Securities offered or sold in compliance with the federal Securities Act of 1933 (15 USC §§ 77a-77aa), Regulation D ("Reg. D"), Rules 230.501-230.503 and 230.505 or 230.506 as made effective in Release No. 33-6389 (47 FR 11251), and as amended in Release Nos. 33-6437 (47 FR 54764), 33-6663 (51 FR 36385), 33-6758 (53 FR 7866), and 33-6825 (54 FR 11369) and which satisfy the following further conditions and limitations:

1. The issuer and any person persons acting on its behalf shall have reasonable grounds to believe, and after making reasonable inquiry shall believe, that all persons who offer or sell securities subject to this rule are registered in accordance with § 13.1-505 of the Act except in the case of an agent of the issuer who receives no sales commission directly or indirectly for offering or selling the securities and who is not subject to subdivision B 2 below.

2. No exemption under this rule shall be available for the securities of any issuer if any of the persons described in the federal Securities Act of 1933 (15 USC §§ 77a-77aa), Regulation A, Rule §230.262(a), (b), or (c):

a. Has filed a registration statement which is subject of a currently effective stop order entered pursuant to any a state's securities law within five years prior to the commencement beginning of the offering.

b. Has been convicted within five years prior to the commencement beginning of the offering of any a felony or misdemeanor in connection with the purchase or sale of any a security or any a felony involving fraud or deceit, including but not limited to forgery, embezzlement, obtaining money under false pretenses, larceny or conspiracy to defraud.

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c. Is currently subject to ~~any~~ a state's administrative order or judgment entered by that state's securities administrator within five years prior to the commencement ~~beginning~~ of the offering or is subject to ~~any~~ a state's administrative order or judgment in which fraud or deceit, including but not limited to making untrue statements of material facts or omitting to state material facts, was found and the order or judgment was entered within five years prior to the commencement ~~beginning~~ of the offering.

d. Is currently subject to ~~any~~ a state's administrative order or judgment which prohibits the use of any exemption from registration in connection with the purchase or sale of securities.

e. Is currently subject to ~~any~~ an order, judgment, or decree of ~~any~~ a court of competent jurisdiction temporarily or ~~preliminary~~ ~~preliminarily~~ restraining or enjoining, or is subject to ~~any~~ an order, judgment or decree of ~~any~~ a court of competent jurisdiction, entered within five years prior to the commencement ~~beginning~~ of the offering, permanently restraining or enjoining such person from engaging in or continuing any conduct or practice in connection with the purchase or sale of ~~any~~ a security or involving the making of ~~any~~ a false filing with ~~any~~ a state.

f. The prohibitions of paragraphs ~~subdivisions~~ a, b, c and e above shall not apply if the party subject to the disqualifying order, judgment or decree is duly licensed or registered to conduct securities related business in the state in which the administrative order, judgment or decree was entered against such party.

g. Any A disqualification caused by this subsection is automatically waived if the state securities administrator or agency of the state which created the basis for disqualification, or the State Corporation Commission, determines upon a showing of good cause that it is not necessary under the circumstances that the exemption under this rule be denied.

3. The issuer shall file with the State Corporation Commission no later than 15 days after the first sale in this state from an offering being made in reliance upon this exemption:

a. A notice on Form D (17 CFR 239.500).

b. An undertaking by the issuer to promptly provide, upon written request, the information furnished by the issuer to offerees.

c. An executed consent to service of process appointing the Clerk of the State Corporation Commission as its agent for purpose of service of process, unless a currently effective consent to service of process is on file with the commission.

d. A filing fee of \$250.

4. In all sales to nonaccredited investors, the issuer and ~~any person~~ persons acting on its behalf shall have reasonable grounds to believe, and after making reasonable inquiry shall believe, that the investment is

suitable for the purchaser as to his/her the purchaser's other security holdings and financial situation and needs.

~~5. The Commission may, upon request, waive the examination requirements of Rule 221 for an agent of the issuer offering and/or selling securities exempted by this Rule upon a showing of good cause; provided, however, that the agent has not participated in more than 2 securities offerings during the 18 months prior to the request for waiver.~~

~~6. 5. Offers and sales of securities which are exempted by this rule may shall not be combined with offers and sales of securities exempted by any other another rule or section of the Act; however, nothing in this limitation shall act as an election. The issuer may claim the availability of any other another applicable exemption should, for any reason, the securities or persons fail to comply with the conditions and limitations of this exemption.~~

~~7. 6. In any proceeding involving this rule the burden of proving the exemption or any an exception from a definition or condition is upon the person claiming it.~~

B. C. The exemption authorized by this rule shall be known and may be cited as the "Uniform Limited Offering Exemption."

## Rule 506-Chicago Board Options Exchange Exemption

~~In accordance with Section 13.1-514 A.12. of the Act, any security listed on the Chicago Board Options Exchange, Inc. ("CBOE") is exempt from the securities registration requirements of the Act if (i) the issuer of the security meets any of the criteria set forth in section A and (ii) the exchange has at least the criteria set forth in sections B through F, below:~~

~~A. The issuer, or in the case of an American Depository Receipt, the foreign issuer of the underlying equity securities, has been subject to the reporting requirements of Section 13 of the Securities Exchange Act of 1934 for the preceding 180 days and is current in its filings; or,~~

~~in the case of an insurance company meeting the conditions of Section 12(g)(2)(G) of the Securities Exchange Act of 1934, such company has been subject to the reporting requirements imposed by the applicable insurance regulatory authority in its domiciliary State for the preceding 180 days and is current in its filings; or,~~

~~in the case of a closed-end investment management company registered under Section 8 of the Investment Company Act of 1940, such company has been subject to the applicable reporting requirements of Section 30 of the Investment Company Act of 1940 for the preceding 180 days and is current in its filings.~~

~~B. CBOE shall require that the issuer have a class of securities currently registered under Section 12 of the Securities Exchange Act of 1934; or in the case of an American Depository Receipt issued against the equity securities of a foreign issuer, such equity securities are registered pursuant to Section 12 of the Securities Exchange Act of 1934; or the issuer is an insurance company meeting the conditions of Section 12(g)(2)(G) of the Securities Exchange Act of 1934 or is a closed-end~~

investment management company registered under Section 8 of the Investment Company Act of 1940 with securities registered under the Securities Act of 1933.

C. CBOE shall require at least the following standards to be met for listing of common stock and other securities convertible into or carrying a right to purchase or subscribe to common stock of the issuer (hereafter referred to as "equity issues") on CBOE:

	Alt. No. 1	Alt. No. 2
Net Tangible Assets <sup>1</sup>	\$4,000,000	\$12,000,000
Public Float	500,000	1,000,000
Pre-Tax Income	750,000	—
Net Income	400,000	—
Shareholders <sup>2</sup>	800/400	800/400
Market Value of Float	3,000,000	15,000,000
Minimum Bid	\$5/Share	—
Operating History	—	3 Years

<sup>1</sup>"Net Tangible Assets" is defined for purposes of this Rule to include the value of patents, copyrights, and trademarks but to exclude the value of good will.

<sup>2</sup>The minimum number of shareholders under each alternative is 800 for issuers with at least 500,000 but less than 1,000,000 shares publicly held or a minimum of 400 if the issuer has either (i) at least 1,000,000 shares publicly held or (ii) at least 500,000 shares publicly held and average daily trading volume in excess of 2,000 shares per day for the six months preceding the listing.

D. CBOE shall require at least the following minimum corporate governance standards for its domestic issuers of equity issues:

1. Distribution of Annual and Interim Reports.

a. Each issuer shall distribute to shareholders copies of an annual report containing audited financial statements of the company and its subsidiaries. The report shall be distributed to shareholders a reasonable period of time prior to the company's annual meeting of shareholders and shall be filed with CBOE at the time it is distributed to shareholders.

b. Each issuer which is subject to SEC Rule 13a-13 shall make available to shareholders copies of quarterly reports including statements of operating results either prior to or as soon as practicable following the company's filing its Form 10-Q with the SEC. If the form of such quarterly report differs from the Form 10-Q, both the quarterly report and the Form 10-Q shall be filed with CBOE. The statement of operations contained in quarterly reports shall disclose, as a minimum, any substantial items of an unusual or nonrecurrent nature, net income, and the amount of estimated federal taxes.

c. Each issuer which is not subject to SEC Rule 13a-13 and which is required to file with the SEC or another federal or state regulatory authority interim reports relating primarily to operations and financial position shall make available to shareholders reports which reflect the information contained in those interim reports. Such reports shall be made available to shareholders either before or as soon as practicable following filing with the appropriate regulatory authority. If the form of the interim report made available to shareholders differs from that filed with the regulatory authority, both the report to shareholders and the report to the regulatory authority shall be filed with the CBOE.

2. Independent Directors. Each issuer shall maintain a minimum of two independent directors on its board of directors. For purposes of this section D, "independent director" shall mean a person other than an officer or employee of the issuer or its subsidiaries or any other individual having a relationship which, in the opinion of the board of directors, would interfere with the exercise of independent judgment in carrying out the responsibilities of a director.

3. Audit Committee. Each issuer shall establish and maintain an audit committee, a majority of the members of which shall be independent directors.

4. Shareholder Meetings. Each issuer shall hold an annual meeting of shareholders and shall provide notice of such meeting to CBOE.

5. Quorum. Each issuer shall provide for a quorum as specified in its by laws for any meeting of the holders of common stock; provided, however, that in no case shall such quorum be less than 33 1/3 percent of the outstanding shares of the issuer's common voting stock.

6. Solicitation of Proxies. Each issuer shall solicit proxies and provide proxy statements for all meetings of shareholders and shall provide copies of such proxy solicitation to CBOE.

7. Conflicts of Interest. Each issuer shall conduct an appropriate review of all related party transactions on an ongoing basis and shall use the issuer's audit committee or a comparable body for the review of potential conflict of interest situations where appropriate.

8. Shareholder Approval Policy. Each issuer shall require shareholder approval of a plan or arrangement under a below or, prior to the issuance of designated securities under b., c., or d. below, when:

a. A stock option or purchase plan is to be established or other arrangement made pursuant to which stock may be acquired by officers or directors, except for warrants or rights issued generally to security holders of the issuer or



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broadly-based plans or arrangements including other employees (e.g. ESOP's). In a case where the shares are issued to a person not previously employed by the issuer, as an inducement essential to the individual's entering into an employment contract with the issuer, shareholder approval will generally not be required.

The establishment of a plan or arrangement under which the amount of securities which may be issued does not exceed the lesser of 1% of the number of shares of common stock, 1% of the voting power outstanding, or 25,000 shares will not generally require shareholder approval.

b. The issuance will result in a change of control of the issuer.

c. In connection with the acquisition of the stock or assets of another company if:

(1) any director, officer or substantial shareholder of the issuer has a 5% or greater interest (or such persons collectively have a 10% or greater interest), directly or indirectly, in the company or assets to be acquired or in the consideration to be paid in the transaction or series of related transactions and the present or potential issuance of common stock, or securities convertible into or exercisable for common stock, could result in an increase in outstanding common shares or voting power of 5% or more; or

(2) in the case of the present or potential issuance of common stock, or securities convertible into or exercisable for common stock, other than in a public offering for cash, where the common stock has or will have upon issuance voting power equal to or in excess of 20% of the voting power outstanding before the issuance of stock or securities convertible into or exercisable for common stock, or the number of shares of common stock to be issued is or will be equal to or in excess of 20% of the number of shares of common stock outstanding before the issuance of the stock or securities.

d. In connection with a transaction other than a public offering involving:

(1) the sale or issuance by the issuer of common stock (or securities convertible into or exercisable for common stock) at a price less than the greater of book or market value which together with sales by officers, directors or substantial shareholders of the issuer equals 20% or more common stock or 20% or more of the voting power outstanding before the issuance; or

(2) the sale or issuance by the company of common stock (or securities convertible into or exercisable for common stock) equal to 20% or more of the common stock or 20% or more of the voting power outstanding before the issuance for less than the greater of book or market value of this stock.

e. Exceptions may be made upon application to CBOE when:

(1) the delay in securing shareholder approval would seriously jeopardize the financial viability of the issuer and

(2) reliance by the issuer on this exception is expressly approved by the issuer's audit committee or a comparable body.

A company relying on this exception must mail to all shareholders not later than ten days before issuance of the securities a letter alerting them to its omission to seek the shareholder approval that would otherwise be required and indicating that the issuer's audit committee or the Board or a comparable body has expressly approved the exception.

f. Only shares actually issued and outstanding (excluding treasury shares or shares held by a subsidiary) are to be used in making any calculation provided for in this paragraph 8. Unissued shares reserved for issuance upon conversion of securities or upon exercise of options or warrants will not be regarded as outstanding.

g. Voting power outstanding as used in this paragraph 8 refers to the aggregate number of votes which may be cast by holders of those securities outstanding which entitle the holders thereof to vote generally on all matters submitted to the issuer's security holders for a vote.

h. An interest consisting of less than either 5% of the number of shares of common stock or 5% of the voting power outstanding of an issuer or party shall not be considered a substantial interest or cause the holder of such an interest to be regarded as a substantial security holder.

## E. Voting Rights.

1. The rules of CBOE shall provide as follows: No rule, stated policy, practice, or interpretation of CBOE shall permit the listing, or the continuance of the listing, of any common stock or other equity security of a domestic issuer, if, on or after October 15, 1992, the issuer of such security issues any class of security, or takes other corporate action, with the effect of nullifying, restricting, or disparately reducing the per share voting rights of holders of an outstanding class or classes of common stock of such issuer registered

pursuant to Section 12 of the Securities Exchange Act of 1934.

2. For the purpose of paragraph 1. of this Section E, the following shall be presumed to have the effect of nullifying, restricting, or disparately reducing the per share voting rights of an outstanding class or classes of common stock:

- a. Corporate action to impose any restriction on the voting power of shares of the common stock of the issuer held by a beneficial owner or record holder based on the number of shares held by such beneficial owner or record holder.
- b. Corporate action to impose any restriction on the voting power of shares of the common stock of the issuer held by a beneficial owner or record holder based on the length of time such shares have been held by such beneficial owner or record holder.
- c. Any issuance of securities through an exchange offer by the issuer for shares of an outstanding class of the common stock of the issuer, in which the securities issued have voting rights greater than or less than the per share voting rights of any outstanding class of the common stock of the issuer.
- d. Any issuance of securities pursuant to a stock dividend, or any other type of distribution of stock, in which the securities issued have voting rights greater than the per share voting rights of any outstanding class of the common stock of the issuer.

3. For the purpose of paragraph 1. of this Section E, the following, standing alone, shall be presumed not to have the effect of nullifying, restricting, or disparately reducing the per share voting rights of holders of an outstanding class or classes of common stock:

- a. The issuance of securities pursuant to an initial registered public offering.
- b. The issuance of any class of securities, through a registered public offering, with voting rights not greater than the per share voting rights of any outstanding class of the common stock of the issuer.
- c. The issuance of any class of securities to effect a bona fide merger or acquisition, with voting rights not greater than the per share voting rights of any outstanding class of the common stock of the issuer.
- d. Corporate action taken pursuant to state law requiring a state's domestic corporation to condition the voting rights of a beneficial owner or record holder of a specified threshold percentage of the corporation's voting stock on the approval of the corporation's independent shareholders.

4. Definitions. The following terms shall have the following meanings for purposes of this Section E, and the rules of CBOE shall include such definitions for the purposes of the prohibition in paragraph 1. of this Section:

- a. The term "common stock" shall include any security of an issuer designated as common stock and any security of an issuer, however designated, which, by statute or by its terms, is a common stock (e.g., a security which entitles the holders thereof to vote generally on matters submitted to the issuer's security holders for a vote).
- b. The term "equity security" shall include any equity security defined as such pursuant to Rule 3a11.1 under the Securities Exchange Act of 1934.
- c. The term "domestic issuer" shall mean an issuer that is not a "foreign private issuer" as defined in Rule 3b-4 under the Securities Exchange Act of 1934.
- d. The term "security" shall include any security defined as such pursuant to Section 3(a)(10) of the Securities Exchange Act of 1934, but shall exclude any class of security having a preference or priority over the issuer's common stock as to dividends, interest payments, redemption or payments in liquidation, if the voting rights of such securities only become effective as a result of specified events, not relating to an acquisition of the common stock of the issuer, which reasonably can be expected to jeopardize the issuer's financial ability to meet its payment obligations to the holders of that class of securities.

- F. Maintenance Criteria. After listing on CBOE, equity issues must meet the following criteria to continue to be listed on CBOE:

1. The issuer of the security has net tangible assets of at least:
  - a. \$2,000,000 if the issuer has sustained losses from continuing operations and/or net losses in two of its three most recent fiscal years; or
  - b. \$4,000,000 if the issuer has sustained losses from continuing operations and/or net losses in three of its four most recent fiscal years;
2. There are at least 200,000 publicly held shares;
3. There are at least 400 shareholders or at least 300 shareholders of round lots;
4. The aggregate market value of publicly held shares is at least \$1,000,000.

- G. The Commission may rescind this order pursuant to its authority under Section 13.1-523 of the Act, thereby revoking this rule, if the Commission determines that the listing requirements of CBOE have been so changed or

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~~insufficiently applied so that the protection of investors is no longer afforded.~~

~~H. The Commission shall have the authority to deny or revoke the exemption created by this Rule as to a specific issue or category of securities.~~

~~I. CBOE shall promptly notify the Commission of the delisting of an issue of securities by CBOE.~~

## § 7. Chicago Board Options Exchange.

A. In accordance with § 13.1-514 A 12 of the Act, the following are exempt from the securities registration requirements of the Act: securities listed or approved for listing upon notice of issuance on the Chicago Board Options Exchange, Inc. (CBOE); securities of the same issuer that are of senior or substantially equal rank; securities called for by subscription rights or warrants so listed or approved; or warrants or rights to purchase or subscribe to any of the foregoing.

B. The State Corporation Commission shall have authority by rule or order to deny, suspend or revoke the exemption created by this rule as to a specific issue or category of securities when necessitated by the public interest and for the protection of investors.

C. The State Corporation Commission may rescind this rule by order if it determines that CBOE's requirements for listing or maintenance of securities of an issuer as set forth in the "Memorandum of Understanding Between the North American Securities Administrators Association, Inc., and the Chicago Board Options Exchange, Inc.," approved May 30, 1991, by membership of the North American Securities Administrators Association, Inc., published in the Commerce Clearing House, "NASAA Reports," paragraph 801 et seq., have been so changed or insufficiently applied that the protection of investors contemplated by the exemption no longer is afforded.

D. The State Corporation Commission may rescind this rule by order if it determines that CBOE has not provided on a timely basis to the State Corporation Commission upon its request materially complete prospectuses in the form most recently filed with the Securities and Exchange Commission as well as other relevant information the State Corporation Commission may deem to be necessary pertaining to initial public offerings, all linked securities and entities whose securities' values underlie Contingent Value Rights that CBOE ordinarily obtains in regulating issuers listed on CBOE, based on agreement with the State Corporation Commission concerning the information to be provided.

## ~~Rule 507 Solicitations of Interest Prior to the Filing of a Registration Statement~~

~~§ 8. Solicitations of interest prior to the filing of a registration statement.~~

A. In accordance with § 13.1-514.1 C of the Act, an offer, but not a sale, of a security made by or on behalf of an issuer for the sole purpose of soliciting an indication of interest in receiving a prospectus (or its equivalent) for such the security is exempt from the securities and, where the offer is made by

an agent of the issuer, agent registration requirements of the Act if all of the conditions set forth in Sections A subdivisions 1 through K 11 below, are satisfied:

A. 1. The issuer is or will be a business entity organized under the laws of one of the states or possessions of the United States or one of the provinces or territories of Canada and is engaged in or proposes to engage in a business other than petroleum exploration or production or mining or other extractive industries; ;

B. 2. The solicitation of interest is not for a so-called "blind pool" offering or other offering for which the specific business in which to be engaged or property to be acquired cannot be described at the time of them solicitation; ;

C. 3. It is intended that the security be registered under the Act and that the offering be conducted pursuant to either Regulation A (17 CFR §§ 230.251-230.263) or Rule 504, § 230.504 of Regulation D (17 CFR §§ 230.501-230.508), as promulgated by the U.S. United States Securities and Exchange Commission; ;

D. 4. At least 10 business days prior to the initial solicitation of interest under this rule, the offeror files with the State Corporation Commission a Solicitation of Interest form along with any other materials to be used to conduct solicitations of interest, including, but not limited to, the script of any broadcast to be made and a copy of any notice to be published; ;

E. 5. At least five business days prior to usage, the offeror files with the State Corporation Commission any amendments to the materials specified in Section D subdivision 4 above, or additional materials to be used to conduct solicitations of interest, except for materials provided to a particular offeree pursuant to a request by that offeree, which materials shall be filed with the commission no later than five business days after usage; ;

F. 6. No Solicitation of Interest form, script, advertisement or other material which the offeror has been notified by the State Corporation Commission not to distribute is used to solicit indications of interest; ;

G. 7. Except for scripted broadcasts and except to the extent necessary to obtain information needed to provide a Solicitation of Interest form, the offeror does not communicate with any an offeree about the contemplated offering unless the offeree is provided with the most current Solicitation of Interest form at or before the time of the communication or within five calendar days after the communication; ;

H. 8. During the solicitation of interest period, the offeror does not solicit or accept money or a commitment to purchase securities; ;

I. 9. No sale is made until at least seven calendar days after delivery to the purchaser of a prospectus which is part of a registration statement declared effective under § 13.1-508 or § 13.1-510 of the Act; ;

~~J. 10.~~ No offer or sale of the security is consummated by any a person who is not registered under or exempted from registration by the Act as a broker-dealer or an agent; ;

~~K. 11.~~ The offeror does not know, and in the exercise of reasonable care, could not know that any of the issuer's officers, directors, agents, 10% shareholders or promoters:

4. a. Has filed a registration statement which is the subject of a currently effective registration stop order entered pursuant to any a federal or state securities law within five years prior to the filing of the Solicitation of Interest form; ;

2. b. Has been convicted within five years prior to the filing of the Solicitation of Interest form of any a felony or misdemeanor in connection with the offer, purchase or sale of any a security or any a felony involving fraud or deceit, including but not limited to forgery, embezzlement, obtaining money under false pretenses, larceny, or conspiracy to defraud; ;

3. c. Is currently subject to any a federal or state administrative enforcement order or judgment entered by any a state securities administrator or the U.S. United States Securities and Exchange Commission within five years prior to the filing of the Solicitation of Interest form, or is subject to any a federal or state administrative enforcement order or judgment entered within five years prior to the filing of the Solicitation of Interest form in which fraud or deceit, including, but not limited to, making untrue statements of material facts and omitting to state material facts, was found; ;

4. d. Is subject to any a federal or state administrative enforcement order or judgment which prohibits, denies, or revokes the use of any an exemption from registration in connection with the offer, purchase or sale of securities; ; or

5. e. Is currently subject to any an order, judgment, or decree of any a court of competent jurisdiction temporarily or preliminarily restraining or enjoining, or is subject to any an order, judgment or decree of any a court of competent jurisdiction, permanently restraining or enjoining, such the party from engaging in or continuing any a conduct or practice in connection with the purchase or sale of any a security or involving the making of any a false filing with the state entered within five years prior to the filing of the Solicitation of Interest form.

The prohibitions listed above shall not apply if the person subject to the disqualification is duly licensed or registered to conduct securities related business in the state in which the administrative order or judgment was entered against such the person or if the broker-dealer employing such the party is licensed or registered in this state and the Form B-D filed with this state discloses the order, conviction, judgment or decree relating to such the person. No person disqualified under this Section ~~K~~ may subdivision 11 shall act in a capacity other than that for which the person is licensed

or registered. Any A disqualification caused by this Section ~~K~~ subdivision 11 is automatically waived if the agency which created the basis for disqualification determines upon a showing of good cause that it is not necessary under the circumstances that the exemption be denied.

~~L. B.~~ A failure to comply with a term, condition or requirement of Sections ~~A-K~~ subdivisions 1 through 11 of subsection A of this Rule section will not result in the loss of the exemption from the securities registration requirements of the Act for any an offer to a particular individual or entity if the offeror shows:

1. The failure to comply did not pertain to a term, condition or requirement directly intended to protect that particular individual or entity; and

2. The failure to comply was insignificant with respect to the offering as a whole; and

3. A good faith and reasonable attempt was made to comply with all applicable terms, conditions and requirements of Sections ~~A-K~~ subdivisions 1 through 11 of subsection A.

Where an exemption is established only through reliance upon this Section ~~L~~, subsection B, the failure to comply shall nonetheless be actionable by the State Corporation Commission as a violation of the Act, and shall constitute grounds for denying or revoking the exemption as to a specific security or transaction.

~~M. C.~~ The offeror shall comply with the requirements set forth in subdivisions 1 and 2 below. Failure to comply will not result in the loss of the exemption from the securities registration requirements of the Act, but shall be a violation of the Act, be actionable by the State Corporation Commission, and constitute grounds for denying or revoking the exemption as to a specific security or transaction.

1. Any published notice or script for broadcast and any printed material delivered apart from the Solicitation of Interest form must shall contain at least the identity of the chief executive officer of the issuer, a brief and general description of its business and products, and the following legends:

a. NO MONEY OR OTHER CONSIDERATION IS BEING SOLICITED AND NONE WILL BE ACCEPTED;

b. NO SALES OF THE SECURITIES WILL BE MADE OR COMMITMENT TO PURCHASE ACCEPTED UNTIL DELIVERY OF AN OFFERING CIRCULAR THAT INCLUDES COMPLETE INFORMATION ABOUT THE ISSUER AND THE OFFERING;

c. AN INDICATION OF INTEREST MADE BY A PROSPECTIVE INVESTOR INVOLVES NO OBLIGATION OR COMMITMENT OF ANY KIND;

d. THIS OFFER IS BEING MADE PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE FEDERAL AND STATE SECURITIES LAWS. NO SALE MAY BE MADE UNTIL THE OFFERING STATEMENT IS QUALIFIED BY THE SEC

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SECURITIES AND EXCHANGE COMMISSION AND THE SECURITIES ARE REGISTERED IN THIS STATE; and

e. REGISTRATION OF THE SECURITIES FOR SALE IN THIS STATE IS DEPENDENT ON COMPLIANCE WITH THE SECURITIES LAWS OF VIRGINIA. THEREFORE, THERE CAN BE NO ASSURANCE THAT THE SECURITIES WILL BE REGISTERED FOR SALE IN VIRGINIA.

This requirement shall not apply to the delivery of printed material to a person who has already received a Solicitation of Interest form with the legends correctly included.

2. All communications with offerees made in reliance on this rule ~~must~~ shall cease after a registration statement is filed in this state, and no sale may be made until at least 20 calendar days after the last communication made in reliance on this rule.

~~N. D.~~ Other than the requirements of ~~Section J, subdivision 10 of subsection A~~ above, the State Corporation Commission may waive any condition of this exemption in writing, upon application by the offeror and good cause having been shown. Neither compliance nor attempted compliance with this rule, nor the absence of ~~any an~~ objection or order by the State Corporation Commission with respect to ~~any an~~ offer of securities undertaken pursuant to this rule, shall be deemed to be a waiver of ~~any a~~ condition of the rule or deemed to be a confirmation by the State Corporation Commission of the availability of this rule.

~~O. E.~~ Offers made in reliance on this rule will not result in a violation of § 13.1-507 of the Act by virtue of being integrated with subsequent offers or sales of securities unless such the subsequent offers and sales would be integrated under federal securities laws.

~~P. F.~~ Issuers on whose behalf indications of interest are solicited under this rule may not make offers or sales in reliance on ~~subsection subdivision B 7 or B 13 of § 13.1-514 of the Act~~ until six months after the last communication with an offeree made pursuant to this rule.

## COMMENTS:

1. All communications made in reliance on this rule are subject to the anti-fraud provisions of the Act.

2. ~~Nothing in this Rule is intended to exempt any person from the broker-dealer or agent registration requirements of the Act. Persons who solicit indications of interest deliver a prospectus in connection with an offering for which indications of interest have been solicited under this rule must be registered under, or exempted from registration by, the Act as a broker-dealer or as an agent.~~

3. The State Corporation Commission may or may not review the materials filed pursuant to this rule. Materials filed, if reviewed, will be judged under anti-fraud principles. Any discussion in the offering documents of the potential rewards of the investment must be balanced by a discussion of possible risks.

4. With respect to ~~Sections D and E subdivisions 4 and 5 of subsection A~~ of this rule, the offeror may begin to conduct solicitations of interest once the pre-filing requirements have been satisfied, unless notified otherwise by the State Corporation Commission. The State Corporation Commission may at any time notify the offeror not to distribute ~~any a~~ Solicitation of Interest form, script, advertisement or other material which the State Corporation Commission believes is in violation of the Act's anti-fraud provisions.

5. ~~Any An~~ offer effected in violation of this rule may constitute an unlawful offer of an unregistered security for which civil liability attaches under § 13.1-522 of the Act. Likewise, ~~any a~~ misrepresentation or omission may give rise to civil liability.

6. Issuers should note that under certain conditions the State Corporation Commission may refuse to grant effectiveness to ~~any a~~ registration statement filed under § 13.1-508 or § 13.1-510 of the Act. In that event, sales to prospective Virginia investors solicited under this rule may not be consummated. Please refer to § 13.1-513 of the Act, Rule 900, and Rule 402.

NOTE TO USERS: The following form sets forth the minimum informational ~~requirement requirements~~ for soliciting indications of interest under federal and state securities laws. You may include additional information if you think it necessary or desirable. Remember that ~~any a~~ discussion in this document is subject to the anti-fraud provisions of the federal and state securities laws and must thereby be complete. Also, ~~any a~~ discussion of potential rewards of the proposed investment must be balanced by a discussion of possible risks. You may alter the graphic presentation of the form in any way as long as the minimum information is clearly presented.

## SOLICITATION OF INTEREST FORM

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NAME OF COMPANY

Street Address of Principal Office:

Company Telephone Number:

Date of Organization:

Amount of the Proposed Offering:

Name of the Chief Executive Officer:

THIS IS A SOLICITATION OF INTEREST ONLY. NO MONEY OR OTHER CONSIDERATION IS BEING SOLICITED AND NONE WILL BE ACCEPTED.

NO SALES OF THE SECURITIES WILL BE MADE OR COMMITMENT TO PURCHASE ACCEPTED UNTIL THE DELIVERY OF A FINAL OFFERING CIRCULAR THAT INCLUDES COMPLETE INFORMATION ABOUT THE COMPANY AND THE OFFERING.

AN INDICATION OF INTEREST MADE BY A PROSPECTIVE INVESTOR INVOLVES NO OBLIGATION OR COMMITMENT OF ANY KIND.

THIS OFFER IS BEING MADE PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE FEDERAL AND STATE SECURITIES LAWS. NO SALE MAY BE MADE UNTIL THE OFFERING STATEMENT IS QUALIFIED BY THE SEC SECURITIES AND EXCHANGE COMMISSION AND THE SECURITIES ARE REGISTERED IN THIS STATE.

REGISTRATION OF THE SECURITIES FOR SALE IN THIS STATE IS DEPENDENT ON COMPLIANCE WITH THE SECURITIES LAWS OF VIRGINIA. THEREFORE, THERE CAN BE NO ASSURANCE THAT THE SECURITIES WILL BE REGISTERED FOR SALE IN VIRGINIA.

- This Company: ( ) Has never conducted business operations.  
 ( ) Is in the development stage.  
 ( ) Is currently conducting operations.  
 ( ) Has shown a profit for the last fiscal year.  
 ( ) Other (Specify) \_\_\_\_\_.

## BUSINESS:

1. Describe in general what business the company does or proposes to do, including what products or goods are or will be produced or services that are or will be rendered.
2. Describe in general how these products or services are to be produced or rendered and how and when the company intends to carry out its activities.

## OFFERING PROCEEDS:

3. Describe in general how the company intends to use the proceeds of the proposed offering.

## KEY PERSONNEL OF THE COMPANY:

4. Provide the following information for all officers and directors or persons occupying similar positions.

Name, Title, Office Street Address, Telephone Number, Employment History (Employers Name, title, office street address, telephone number, employment history (employers, titles and dates of positions held during the past five years), and Education education (degrees, schools and dates).

(end of form)

## § 9. Philadelphia Stock Exchange, Inc.

A. In accordance with § 13.1-514 A 12 of the Act, the following are exempt from the securities registration requirements of the Act: securities listed or approved for listing upon notice of issuance on Tier I of the Philadelphia Stock Exchange, Inc. (the Exchange); securities of the same issuer that are of senior or substantially equal rank; securities called for by subscription rights or warrants so listed or approved; or warrants or rights to purchase or subscribe to any of the foregoing.

B. The State Corporation Commission shall have authority by rule or order to deny, suspend or revoke the exemption created by this rule as to a specific issue or category of securities when necessitated by the public interest and for the protection of investors.

C. The State Corporation Commission may rescind this rule by order if it determines that the Exchange's requirements for listing or maintenance of securities of an issuer as set forth in the "Memorandum of Understanding Between the North American Securities Administrators Association, Inc. and the Philadelphia Stock Exchange, Inc.," approved October 12, 1994, by membership of the North American Securities Administrators Association, Inc., published in the Commerce Clearing House, "NASAA Reports," paragraph 2941 et seq., have been so changed or insufficiently applied that the protection of investors contemplated by the exemption no longer is afforded.

D. The State Corporation Commission may rescind this rule by order if it determines that the Exchange has not provided on a timely basis to the State Corporation Commission upon its request materially complete prospectuses in the form most recently filed with the Securities and Exchange Commission as well as other relevant information the State Corporation Commission may deem to be necessary pertaining to initial public offerings that the Exchange ordinarily obtains in regulating issuers listed on the Exchange, based on agreement with the State Corporation Commission concerning the information to be provided.

## § 10. Pacific Stock Exchange, Inc.

A. In accordance with § 13.1-514 A 12 of the Act, the following are exempt from the securities registration requirements of the Act: securities listed or approved for listing upon notice of issuance on Tier I of the Pacific Stock Exchange, Inc. (the Exchange); securities of the same issuer that are of senior or substantially equal rank; securities called for by subscription rights or warrants so listed or approved; or warrants or rights to purchase or subscribe to any of the foregoing.

B. The State Corporation Commission shall have authority by rule or order to deny, suspend or revoke the exemption created by this rule as to a specific issue or category of securities when necessitated by the public interest and for the protection of investors.

C. The State Corporation Commission may rescind this rule by order if it determines that the Exchange's requirements for listing or maintenance of securities of an issuer as set forth in the "Memorandum of Understanding Between the North American Securities Administrators Association, Inc. and the Pacific Stock Exchange, Inc.," approved October 12, 1994, by membership of the North American Securities Administrators Association, Inc., published in the Commerce Clearing House, "NASAA Reports," paragraph 2841 et seq., have been so changed or insufficiently applied that the protection of investors contemplated by the exemption no longer is afforded.

D. The State Corporation Commission may rescind this rule by order if it determines that the Exchange has not provided on a timely basis to the State Corporation Commission upon its request materially complete prospectuses in the form most recently filed with the Securities and Exchange Commission as well as other relevant information the State Corporation Commission may deem to be necessary pertaining to initial public offerings that the Exchange ordinarily obtains in

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# State Corporation Commission

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regulating issuers listed on the Exchange, based on agreement with the State Corporation Commission concerning the information to be provided.

## § 11. Issuer limited transactional exemption.

A. In accordance with § 13.1-514 B 7(b) of the Act, an offer or sale by the issuer of any of the following securities issued by a corporation, partnership, limited liability company, or real estate investment trust, as the case may be: note, stock, bond, debenture, evidence of indebtedness, partnership interest, share of beneficial interest in a real estate investment trust, a warrant or right to purchase or subscribe to any of the foregoing or a security convertible into any of the foregoing, shall be exempt from the securities, broker dealer and agent registration requirements of the Act, provided the following conditions are met:

1. In connection with an offering pursuant to this rule, there shall be no more than 35 purchasers in this Commonwealth during any period of 12 consecutive months;

2. In connection with an offering pursuant to this rule, the issuer shall:

a. Deliver Form VA-1 and in certain prescribed circumstances, Part 2 of Form VA-1 or a disclosure document containing the information required by Form VA-1 and Part 2, if required, to each prospective purchaser prior to a sale to a purchaser; and

b. Sell securities only to purchasers, each of which the issuer shall, after reasonable inquiry, believe either:

(1) Has sufficient knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of the prospective investment, and is able to bear the economic risks of the prospective investment; or

(2) Together with a purchaser representative or representatives, has sufficient knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of the prospective investment, and that the purchaser is able to bear the economic risks of the prospective investment; and,

3. No more than \$100,000 shall be raised pursuant to this rule during any period of 12 consecutive months.

4. No commission or similar remuneration is paid or given, directly or indirectly, for soliciting a prospective purchaser, or in connection with sales of securities in reliance on this rule, unless paid to a broker-dealer and its agent who are registered under the Act;

B. This exemption is not available with respect to an offering:

1. Pursuant to a registration statement or Regulation A (17 CFR §§ 230.251-230.263) notification which has been filed under the federal Securities Act of 1933;

2. Pursuant to an exemption under Regulation D (17 CFR § 230.505 or 17 CFR § 230.506), which offering may be exempted in Virginia only by Article 5, § 4 of these rules (uniform limited offering exemption);

3. If the amount of money to be raised from the offering, when added to the total amount of money raised from all prior offerings under this rule, exceeds \$500,000;

4. If the issuer has offered for sale or sold its securities which are of the same or a similar class as that to be offered for sale or sold under this rule within 180 days prior to this offering or if the issuer offers for sale or sells its securities that are of the same or a similar class as those offered and sold under this rule within 180 days after this offering; or

5. If the issuer does not have a principal place of business in this Commonwealth.

C. An exemption under this rule is not available if the issuer, its directors, officers, partners, members, trustees or beneficial owners of 10% or more of a class of its voting securities, or its promoters or agents connected with it or a person offering or selling the securities for or on behalf of the issuer:

1. Has been convicted (or has pleaded nolo contendere) within five years prior to reliance on this rule of a felony or a misdemeanor in connection with the purchase or sale of a security, or in connection with making a false filing with the United States Securities and Exchange Commission or a state securities administrator or of a felony involving fraud or deceit, including but not limited to, forgery, embezzlement, obtaining money under false pretenses, larceny, conspiracy to defraud, or theft;

2. Is subject to an order, judgment or decree of a court of competent jurisdiction that temporarily or preliminary restrains or enjoins, or is subject to an order, judgment or decree of a court of competent jurisdiction, entered within five years prior to reliance on this rule, which permanently restrains or enjoins a person from engaging in or continuing a practice or conduct in connection with the purchase or sale of a security, or involving the making of a false filing with the United States Securities and Exchange Commission or a state securities administrator;

3. Is subject to a United States Postal Service false representation order entered within five years prior to reliance on this rule; or

4. Is subject to a state administrative order entered within five years prior to reliance on this rule by a state securities administrator in which fraud or deceit was found.

D. The issuer shall file with the State Corporation Commission 15 days prior to the first sale in this Commonwealth in reliance on this rule:

1. A copy of Form VA-1, including Part 2, if applicable or a disclosure document containing the information required by the Form;

2. An executed Consent to Service of Process on Form U2 appointing the Clerk of the State Corporation Commission as its agent for service of process;

3. An undertaking to promptly provide to the State Corporation Commission, upon request, additional information as the State Corporation Commission may require; and

4. A nonrefundable filing fee of \$250.

E. This rule does not exempt persons or transactions from the anti-fraud provisions of the Virginia Securities Act (§ 13.1-501 et seq. of the Act).

F. The State Corporation Commission may deny the exemption if it determines that a particular transaction or offering is not in the public interest.

G. For purposes of this rule and § 13.1-514 B 7(b) of the Act, the following shall apply:

1. Neither the issuer nor persons acting on its behalf shall offer or sell the securities by form of general solicitation or advertising, including but not limited to, the following:

a. "Cold" calls by telephone or other means, advertising, article, notice, or other communication published in a newspaper, newsletter, magazine, mass mailing, electronic media, or similar media or broadcast over television or radio; or

b. Seminars or meetings whose attendees have been invited by general solicitation or general advertising.

2. Securities acquired in a transaction under this rule shall not be resold without registration under or exemption from the Virginia Securities Act. The issuer or a person acting on its behalf shall exercise reasonable care to assure that the purchasers of the securities in an offering under this rule are purchasing for investment and not with a view to distribution of the securities. Reasonable care shall include, but not be limited to, the following:

a. Reasonable inquiry to determine whether the purchaser is acquiring the securities for himself or for other persons;

b. Placement of a restrictive legend on the certificate or other document evidencing the securities. The legend shall be in the following form:

THE SECURITIES REPRESENTED BY THIS CERTIFICATE (OR OTHER DOCUMENT) HAVE BEEN ISSUED PURSUANT TO A CLAIM OF EXEMPTION FROM THE REGISTRATION OR QUALIFICATION PROVISIONS OF FEDERAL AND STATE SECURITIES LAWS AND SHALL NOT BE SOLD OR TRANSFERRED WITHOUT COMPLIANCE WITH THE REGISTRATION OR QUALIFICATION PROVISIONS OF APPLICABLE FEDERAL AND STATE SECURITIES LAWS OR APPLICABLE EXEMPTIONS THEREFROM;

c. Issuance of stop-transfer instructions to the issuer's transfer agent with respect to the securities, or, if the issuer transfers its own securities, notation in the appropriate records of the issuer; and

d. Obtaining from the purchaser a signed agreement that the securities will not be sold unless they are registered under the Virginia Securities Act or exempted from registration.

3. All sales that are part of the same offering under this rule shall meet all the conditions of this rule. Offers and sales that are made more than six months before the commencement of an offering under this rule or are made more than six months after completion of an offering under this rule will not be considered part of that offering, so long as during those six-month periods there are no offers or sales of securities by or on behalf of the issuer that are of the same or a similar class as those offered or sold under this rule. If securities of the same or a similar class as those offered pursuant to this rule are offered or sold less than six months before or after an offer or sale pursuant to this rule, those offers to sell or sales, will be deemed to be "integrated" with the offering.

H. In proceedings involving this rule, the burden of proving the exemption or an exception from a definition or condition is upon the person claiming it.

I. The exemption authorized by this rule shall be known and may be cited as the "Issuer Limited Transactional Exemption."



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# State Corporation Commission

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FORM VA-1 Part 1  
7/1/95

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
DIVISION OF SECURITIES AND RETAIL FRANCHISING  
**NOTICE OF LIMITED OFFERING OF SECURITIES**  
PURSUANT TO ARTICLE 5, §11 OF THE SECURITIES ACT RULES

The issuer shall file this notice with the Division of Securities and Retail Franchising not later than 15 days prior to the first sale of securities in this Commonwealth.

This notice shall be accompanied by a non-refundable filing fee of \$250.00. This notice shall be deemed filed with the division for purposes of the rule as of the date on which the notice is received by the division.

IF ADDITIONAL SPACE IS REQUIRED TO RESPOND COMPLETELY TO ANY ITEM, PLEASE ATTACH ADDITIONAL SHEETS.

1. Name of issuer: \_\_\_\_\_  
Address of issuer: \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Telephone number \_\_\_\_\_
2. Correspondence to whom communications regarding this notice should be directed:  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Telephone number \_\_\_\_\_
3. Describe, in summary form, the issuer's business (including but not limited to the operations being conducted (if the business is not operational, describe when operations will begin):
4. Describe in detail the risk factors to be considered in purchasing the securities:
5. Describe, in summary form, assets owned or leased by the issuer's business and if leased, describe the terms:
6. Describe, in summary form, pending litigation involving the issuer's business or its officers or directors:
7. Issuer's type of business organization: \_\_\_\_\_  
(corporation, partnership, (limited liability company) real estate investment trust)
8. Year in which the issuer was incorporated or organized: \_\_\_\_\_
9. State or country in which the issuer was incorporated or organized: \_\_\_\_\_
10. Identify the exemption from federal registration on which the issuer is relying in connection with this offering:

\_\_\_\_\_  
(SEC Rule 504, Section 4(2) of the Securities Act of 1933, SEC Rule 147, other (specify))

## State Corporation Commission

11. List the other jurisdictions in which it is proposed that securities in connection with this offering will be offered or sold: \_\_\_\_\_
12. Indicate the nature of the issuer's securities that are the subject of this offering: \_\_\_\_\_  
notes \_\_\_\_\_ debentures \_\_\_\_\_ stocks \_\_\_\_\_ evidence of indebtedness \_\_\_\_\_  
bonds \_\_\_\_\_ partnership interests \_\_\_\_\_  
shares of beneficial interest of a real estate investment trust \_\_\_\_\_  
warrants or rights to purchase or subscribe to one of the above \_\_\_\_\_  
other securities convertible into one of the above \_\_\_\_\_
13. Have securities of the same or a similar class as those that are the subject of this offering been offered or sold within the six months preceding the beginning of this offering?  
Yes \_\_\_\_\_ No \_\_\_\_\_  
Date of first sale in Virginia: \_\_\_\_\_ If "yes", explain briefly: \_\_\_\_\_
14. Date of beginning of this offering: \_\_\_\_\_
15. Aggregate offering price of the securities intended to be sold in this offering: \$ \_\_\_\_\_  
Number of units offered: \_\_\_\_\_  
Price per unit offered: \$ \_\_\_\_\_  
Use of proceeds (be specific) \_\_\_\_\_
16. State the aggregate offering price of the securities intended to be sold in Virginia, if different from answer to 15, above: \$ \_\_\_\_\_
17. On a separate sheet, state the name, home address and position of each officer, director, general partner or trustee of the issuer, in the following format:
- | Name                  | Position |
|-----------------------|----------|
| _____                 |          |
| Home Address          |          |
| _____                 |          |
| City, State, Zip Code |          |
| _____                 |          |
18. Using a separate sheet if necessary, state the name and home address of each person who is, or will be immediately after completion of this offering, a beneficial owner of 10% or more of the outstanding class of voting securities of the issuer, in the following format:
- | Name                  | Position |
|-----------------------|----------|
| _____                 |          |
| Address               |          |
| _____                 |          |
| City, State, Zip Code |          |
| _____                 |          |

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## State Corporation Commission

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19. Using a separate sheet if necessary, identify all persons authorized by the issuer to sell securities of the issuer under this offering, in the following format:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

( ) \_\_\_\_\_  
Telephone Number

Is this person affiliated with the issuer? Yes \_\_\_\_\_ No \_\_\_\_\_

If "yes", position: \_\_\_\_\_

Type and value of any remuneration to this person for sale of securities (if "none", so state):  
\_\_\_\_\_

Is this person a broker-dealer or an agent of a broker-dealer? Yes \_\_\_\_\_ No \_\_\_\_\_

20. Applicant's Signature:

\_\_\_\_\_  
Name (please print): \_\_\_\_\_

Title: \_\_\_\_\_

Date of Notice: \_\_\_\_\_

FORM VA-1 Part 2  
7/1/95

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
DIVISION OF SECURITIES AND RETAIL FRANCHISING

**NOTICE OF LIMITED OFFERING OF SECURITIES**  
PURSUANT TO ARTICLE 5, §11 OF THE SECURITIES ACT RULES

Issuer limited transactional exemption.

An issuer must deliver Part 2 of Form VA-1 or a disclosure document containing the information required by Part 2 of Form VA-1 to all purchasers, if:

1. Within 18 months prior to the first sale of securities under this rule, the issuer has issued or committed to be issued securities of the same or a similar class for consideration of a value 25 % or more below the offering price of securities to be sold under this rule, if the securities issued or committed to be issued constitute 10% or more of the securities of the same or a similar class outstanding at the beginning of the offering under this rule, or if the securities were issued or committed to be issued to an officer, director, general partner, trustee, or promoter of the issuer; or

2. The entire proceeds of the offering under this rule are not to be escrowed in a bank, as defined in the federal Securities Act of 1933, §3(a)(2), or a savings and loan association or similar institution as defined in the federal Securities Act of 1933, §(3)(a)(5), until completion of the offering.

- (a) Indicate the names of officers, directors, general partners, trustees (if a real estate investment trust) or promoters of the issuer to whom any amount of securities of the issuer has been, or is to be, issued at a price of 25% or more below the offering price of this offering, regardless of the percentage of securities of the Issuer this represents, if issued or committed to be issued within the last 18 months.

NAME	CLASS/TYPE	NO. OF SHARES	PRICE

- (b) Indicate the names of any persons other than those named in paragraph (a), above, to whom securities aggregating 10% or more of the total securities outstanding at the beginning of this offering have been issued or committed to be issued within the last 18 months and which were issued or are to be issued at a price 25% or more below the offering price of this offering.

NAME	CLASS/TYPE	NO. OF SHARES	PRICE

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## State Corporation Commission

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- (c) Are any proceeds of this offering to be escrowed pending completion of this offering?  
Yes \_\_\_\_\_ No \_\_\_\_\_

(1) If "yes", identify the escrow agent:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code Telephone Number

(\_\_\_\_\_)\_\_\_\_\_

(2) If "yes", will the escrow account be:  
\_\_\_\_\_ entire proceeds of offering; or  
\_\_\_\_\_ partial proceeds of offering

(3) If "yes", describe the duration, e.g., "until completion of the offering" or "until partial proceeds started in Paragraph 2 are raised", and terms regarding interest, indicating for whose benefit any interest will accrue.

**NOTICE TO PROSPECTIVE INVESTORS:** IF THE ENTIRE PROCEEDS ARE NOT TO BE ESCROWED PENDING COMPLETION OF THE OFFERING, PROSPECTIVE INVESTORS ARE WARNED THAT THEIR TOTAL INVESTMENT MAY BE LOST OR EXPOSED TO CLAIMS OF CREDITORS OF THE ISSUER IF THE ISSUER IS UNSUCCESSFUL IN COMPLETING THE OFFERING.

SIGNATURE:

Applicant's Signature:

\_\_\_\_\_  
Name (please print):

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Date of Notice:

## Article 11.

Investment Advisor Representative Registration, Expiration,  
Updates and Amendments, Termination and Changing  
Connection from One Investment Advisor to Another.

### Rule 1106 § 7. Examination/qualification.

A. An individual applying for registration as an investment advisor representative on or after July 1, 1989, shall be required to provide evidence of passing the Uniform Investment Adviser Law Examination, Series 65, *or a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of Securities and Retail Franchising designates with a minimum grade of 70 percent %.*

B. In lieu of meeting the examination requirement described in *paragraph subsection A* of this Rule section, an applicant who meets the qualifications set forth below may file with the commission at its Division of Securities and Retail Franchising an executed Affidavit for Waiver of Series-65 Examination (Form S.A.3).

1. No more than one other individual connected with the applicant's investment advisor is utilizing the waiver at the time the applicant files Form S.A.3.
2. The applicant is, and has been for at least the five years immediately preceding the date on which the

application for registration is filed, actively engaged in the investment advisory business.

3. The applicant has been for at least the two years immediately preceding the date on which the application is filed the president, chief executive officer or chairman of the board of directors of an investment advisor organized in corporate form or the managing partner, member, trustee or similar functionary of an investment advisor organized in noncorporate form.

4. The investment advisor(s) referred to in *paragraph subdivision 3* has been actively engaged in the investment advisory business and during the applicant's tenure as president, chief executive officer, chairman of the board of directors, or managing partner, member, trustee or similar functionary had at least forty million dollars under management.

5. The applicant verifies that he/she has read and is familiar with the investment advisor and investment advisor representative provisions of the Act and the provisions of Articles ~~X—XIV~~ *10 through 14* of these rules.

6. The applicant verifies that none of the questions in Item 22 (disciplinary history) on his Form U-4 have been, or need be, answered in the affirmative.

# State Corporation Commission

S.D.3 (10/92) S.A.3 (1995)

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
DIVISION OF SECURITIES AND RETAIL FRANCHISING

AFFIDAVIT FOR WAIVER OF SERIES 65 EXAMINATION  
Pursuant to Rule 1106 Art. 2, § 7 B

State of \_\_\_\_\_

County/City of \_\_\_\_\_, to wit:

The undersigned, having been duly sworn, deposes and says:

1. My name is \_\_\_\_\_.
2. My CRD number is \_\_\_\_\_.
3. The name of the investment advisory with which I am, or will be connected is \_\_\_\_\_.
4. The CRD number of this investment advisor is \_\_\_\_\_.
5. I am, and have been for at least the five years immediately preceding the date on which my application for registration was filed, actively engaged in the investment advisory business.
6. I have been for at least the two years immediately preceding the date on which my application for registration was filed the president, chief executive, chairman of the board of directors, or managing partner, member, trustee or similar functionary, of an investment advisor actively engaged in the investment advisory business.
7. The investment advisor(s) referred to in paragraph subdivision 6, above, have, or had during my tenure as president, chief executive officer, chairman of the board of directors, or managing partner, member, trustee or similar functionary, at least forty million dollars under management.
8. I have read and am familiar with the investment advisor and investment advisor representative provisions of the Virginia Securities Act (§ 13.1 501 et seq. of the Code of Virginia) and provisions of Articles X—XIV 10 - 14 of this Commission's Securities Act Rules.
9. None of the questions in Item 22 (disciplinary history) on my Form U-4 have been, or need be, answered in the affirmative.

\_\_\_\_\_  
Signature of the Affiant

Subscribed and sworn to before me, a Notary Public, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_(SEAL)  
Signature of the Notary Public

My commission expires: \_\_\_\_\_

#### INSTRUCTIONS

This form must be filed with the Division of Securities and Retail Franchising. Form U-4 (or any amendment) and any required fee must be filed with the NASA/NASD Central Registration Depository system.

S.O.4 (1972) (1995)

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
DIVISION OF SECURITIES AND RETAIL FRANCHISING

**APPLICATION FOR RENEWAL OF AGENT'S LICENSE REGISTRATION AS AN  
AGENT OF AN ISSUER**  
(Print or Type)

Last Name \_\_\_\_\_ First Name \_\_\_\_\_ Middle Name \_\_\_\_\_  
residing at \_\_\_\_\_, hereby  
Street Number City State Zip  
applies for a renewal license of registration as an agent registered under the Securities Act, and reaffirms his  
connection with the broker-dealer or issuer specified below:

\_\_\_\_\_  
(Name of Broker-Dealer or Issuer)  
During the past year the applicant has resided at the following address:

The address of the applicant's place of business is to be entered here if other than the principal address of  
the broker-dealer or issuer.

In order to assist in determining the character and reputation of the applicant, whether to grant the  
application, check below whether or not he the applicant has been involved in any of the following during the  
preceding licensing registration year.

	YES	NO
Has been convicted of felony or misdemeanor involving dishonesty?	( )	( )
Has been sued for fraud, deceit or breach of trust?	( )	( )
Has been adjudicated as bankrupt?	( )	( )
Has any unsatisfied judgments against him?	( )	( )
Has been denied a license registration to sell securities?	( )	( )
Has had a license securities registration suspended or revoked?	( )	( )

If the broker-dealer or issuer is unable to answer any of the above with a (NO), the renewal cannot be  
processed until the situation is discussed with the Securities Division.

**CERTIFICATE**

The broker-dealer or issuer named in the foregoing renewal application certifies that the information  
supplied is true and correct to the best of its knowledge and promises to notify the Commission promptly  
with respect to any change in information heretofore given.

\_\_\_\_\_  
Broker-Dealer Issuer Date

By \_\_\_\_\_ (Signature) Title

**INSTRUCTIONS**

1. All renewal applications must be submitted simultaneously with the broker-dealer or issuer renewal application.
- 2.1 Do not send separate \$30.00 checks for each agent. Incorporate all fees into one check covering all renewals. Check to be made payable to the Treasurer of Virginia.
- 3.2 Should an investigation of the applicant be necessary, the Commission may require additional information.
- 4.3 If the applicant ceases to be connected with the broker-dealer or issuer specified in the application, he and the broker-dealer or issuer must promptly notify the Commission giving date of termination and advising that the agent's record is either clear or not clear.



## FORM ADV INSTRUCTIONS

OMB Number:	3235-0049
Expires:	May 31, 1997
Estimated average burden hours per response:	9.01

**1. This is a Uniform Form for use by investment advisers to:**

- register with the Securities and Exchange Commission and the jurisdictions that require advisers to register.
- update those registrations. When updating, complete all amended pages in full and circle the number of the item being changed. Each amendment must include the execution page.
- comply with their obligation under SEC Rule 206(4)-4 to disclose material financial and disciplinary information to clients. When using Part II of this form to disclose this information to clients, advisers must satisfy the timing of disclosure requirements described in paragraph (c) of SEC Rule 206(4)-4. Note that SEC Rule 206(4)-4(c) requires an adviser to disclose this information promptly to clients, while SEC Rule 204-3(b) only requires an adviser to annually offer to deliver its brochure to existing clients.

**2. Organization**

The Form contains two parts. Parts I and II are filed with the SEC and the jurisdictions; Part II can generally be given to clients to satisfy the brochure rule. The Form also contains the following schedules:

- Schedule A — for corporations;
- Schedule B — for partnerships;
- Schedule C — for entities that are not sole proprietorships, partnerships or corporations;
- Schedule D — for reporting information about individuals under Part I Item 12;
- Schedule E — for continuing responses to Part I items;
- Schedule F — for continuing responses to Part II items;
- Schedule G — for the balance sheet required by Part II Item 14; and
- Schedule H — for satisfaction of the brochure rule by sponsors of wrap fee programs.

**3. Format**

- Type all information.
- Give all individual names in full, including full middle names.
- Use only Form ADV and its Schedules or a reproduction of them.

**4. Signature**

- All filings and amendments must be filed with a signed execution page (page 1).
- Each copy filed with the Securities and Exchange Commission and any jurisdiction must be manually signed.

If applicant is \_\_\_\_\_ Form ADV should be signed by \_\_\_\_\_

- a sole proprietor ..... the proprietor
- a partnership ..... a general partner for the partnership
- a corporation ..... an authorized principal officer for the corporation
- any other organization ..... the managing agent (an authorized person that participates in managing or directing applicant's affairs)

**5. General Definitions (Additional definitions appear in Part I Item 11 and Part II.)**

- Applicant — The investment adviser applying on or amending this Form.
- Client — An investment advisory client of the applicant.
- Control — The power to direct or cause the direction of the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any individual or firm that is a director, partner or officer exercising executive responsibility (or having similar status or functions) or that directly or indirectly has the right to vote 25 percent or more of the voting securities or is entitled to 25 percent or more of the profits is presumed to control that company. (This definition is used solely for the purpose of Form ADV.)

SEC 1707 (6-94)

- **Custody** — A person has custody if it directly or indirectly holds client funds or securities, has any authority to obtain possession of them, or has the ability to appropriate them. An adviser has custody, for example, if it has a general power of attorney over a client's account or has signatory power over a client's checking account. (The definition and examples are for the convenience of registrants. Depending on the facts and circumstances, other situations also may involve custody.)
  - **Jurisdiction** — Any non-Federal government or regulatory body in the United States, or Puerto Rico.
  - **Person** — An individual, partnership, corporation or other organization.
  - **Related person** — Any officer, director or partner of applicant or any person directly or indirectly controlling, controlled by or under common control with the applicant, including any non-clerical, non-ministerial employee.
  - **Self-regulatory organizations** — Any national securities or commodities exchange or registered association, or registered clearing agency.
6. **Continuation Sheets** — Schedules E and F provide additional space for continuing Form ADV items (Schedule E for Part I; Schedule F for Part II) but not for continuing Schedules A, B, C, D, G or H. To continue Schedules A, B, C, D and G, use copies of the schedule being continued. The response to Schedule H should be included as a separate document attached to the Schedule.
7. **SEC Filings**
- **Submit filings** in triplicate to the Securities and Exchange Commission, Washington, D.C. 20549. To register, submit a check or money order for \$150 payable to the Securities and Exchange Commission. This fee is non-refundable. There is no fee for amendments.
  - **Non-Residents** — Rule 0-2 under the Investment Advisers Act of 1940 [17 CFR 275.0-2] covers those non-resident persons named anywhere in Form ADV that must file a consent to service of process and a power of attorney. Rule 204-2(j) under the Investment Advisers Act of 1940 [17 CFR 275.204-2] covers the notice of undertaking on books and records non-residents must file with Form ADV.
  - **Updating.** Federal law requires filing amendments:
    - promptly for *any* changes in:
      - Part I — Items 1, 2, 3, 4, 5, 8, 11, 13A, 13B, 14A, and 14B;
    - Promptly for *material* changes in:
      - Part I — Items 9 and 10, all items of Part II except Item 14, and all Items of Schedule H;
    - within 90 days of the end of the fiscal year for any other changes.
  - **Federal Information Law and Requirements** — Investment Advisers Act of 1940 Sections 203(c), 204, 206, and 211(a) authorize the SEC to collect the information on this Form from applicants for investment adviser registration. The information is used for regulatory purposes, including deciding whether to grant registration. The SEC maintains files of the information on this form and makes it publicly available. Only the Social Security Number, which aids identifying the applicant, is voluntary. The SEC may return as unacceptable Forms that do not include all other information. By accepting this Form, however, the SEC does not make a finding that it has been filled out or submitted correctly. Intentional misstatements or omissions constitute Federal criminal violations under 18 USC 1001 and 15 USC 80b-17.
8. **Filings in Jurisdictions** — Consult the requirements of each jurisdiction in which you are filing to determine its requirements for, among other things:
- filings
  - updates
  - financial statements
  - bonding
  - examinations and qualifications
  - photographs and fingerprints
  - limitations on advisory fees

Information on a jurisdiction's requirements is available from its Securities Administrator. For the address and telephone number of the Securities Administrator in a jurisdiction, contact the North American Securities Administrators Association, Inc., One Massachusetts Ave., N.W., Suite 310, Washington, D.C. 20001, (202) 737-0900.

9. **Sponsors of Wrap Fee Programs** — Sponsors of wrap fee programs must provide clients and prospective clients of wrap fee programs with a document containing the information required by Schedule H.

- **Wrap Fee Programs** — A wrap fee program is any program under which any client is charged a specified fee or fees not based directly upon transactions in a client's account for investment advisory services (which may include portfolio management or advice concerning the selection of other investment advisers) and execution of client transactions.
- **Sponsors** — A sponsor of a wrap fee program is any applicant that is compensated under a wrap fee program for sponsoring, organizing, or administering the program, or for selecting, or providing advice to clients regarding the selection of, other investment advisers in the program.

The document prepared in response to Schedule H must be provided to clients of the wrap fee program in lieu of Part II (or the document containing the information required by Part II), which the sponsor is required to provide to other advisory clients. Part II and Schedule F need only contain an abbreviated narrative discussion of a sponsor's wrap fee programs, although responses to check-the-box questions in Part I and Part II should reflect the applicant's wrap fee programs.

Schedule H of  
Form ADV  
Page 1

Applicant:	SEC File Number:	DATE:
	801-	MM/DD/YY

(for sponsors of wrap fee programs)

Name of wrap fee program or programs described in attached brochure:
<p>1. <b>Applicability of Schedule.</b> This schedule must be completed by applicants that are compensated under a wrap fee program for sponsoring, organizing, or administering the program, or for selecting, or providing advice to clients regarding the selection of, other investment advisers in the program ("sponsors"). A wrap fee program is any program under which a specified fee or fees not based directly upon transactions in a client's account is charged for investment advisory services (which may include portfolio management or advice concerning the selection of other investment advisers) and execution of client transactions.</p> <p>2. <b>Use of Schedule.</b> This Schedule sets forth the information the sponsor must include in the wrap fee brochure it is required to deliver or offer to deliver to clients and prospective clients of its wrap fee programs under Rule 204-3 under the federal Advisers Act and similar rules of the jurisdictions. The wrap fee brochure prepared in response to this Schedule must be filed with the Commission and the jurisdictions as part of Form ADV by completing the identifying information on this Schedule and attaching the brochure. Brochures should be prepared separately, not on copies of this Schedule. Any wrap fee brochure filed with the Commission as part of an amendment to Form ADV shall contain in the upper right hand corner of the cover page the sponsor's registration number (801- ).</p> <p>3. <b>General Contents of Brochure.</b> Unlike Parts I and II of this form, this Schedule is not organized in "check-the-box" format. These instructions, including the requests for information in Item 7 below, should not be repeated in the brochure. Rather, this Schedule describes minimum disclosures that must be made in the brochure to satisfy the sponsor's duty to disclose all material facts about the sponsor and its wrap fee programs. Nothing in this Schedule relieves the sponsor from any obligation under any provision of the federal Advisers Act or rules thereunder, or other federal or state law to disclose information to its advisory clients or prospective advisory clients not specifically required by this Schedule.</p> <p>4. <b>Multiple Sponsors.</b> If two or more persons fall within the definition of "sponsor" in Item 1 above for a single wrap fee program, only one such sponsor need complete the Schedule. The sponsors may choose among themselves the sponsor that will complete the Schedule.</p> <p>5. <b>Omission of Inapplicable Information.</b> Any information not specifically required by this Schedule that is included in the brochure should be applicable to clients and prospective clients of the sponsor's wrap fee programs. If the sponsor is required to complete this Schedule with respect to more than one wrap fee program, the sponsor may omit from the brochure furnished to clients and prospective clients of any wrap fee program or programs information required by this Schedule that is not applicable to clients or prospective clients of that wrap fee program or programs. If a sponsor of more than one wrap fee program prepares separate wrap fee brochures for clients of different programs, each brochure prepared must be filed with the Commission and the jurisdictions attached to a separate copy of this Schedule. Each such brochure must state that the sponsor sponsors other wrap fee programs and state how brochures for those programs may be obtained.</p> <p>6. <b>Updating.</b> Sponsors are required to file an amendment to the brochure promptly after any information in the brochure becomes materially inaccurate. Amendments may be made by use of a "sticker," i.e., a supplement affixed to the brochure that indicates what information is being added or updated and states the new or revised information, as long as the resulting brochure is readable. Stickers should be dated and should be incorporated into the text of the brochure when the brochure itself is revised.</p> <p>7. <b>Contents of Brochure.</b> Include in the brochure prepared in response to this Schedule:</p> <p>(a) on the cover page, the sponsor's name, address, telephone number, and the following legend in bold type or some other prominent fashion:</p> <p style="padding-left: 40px;">This brochure provides clients with information about [name of sponsor] and the [name of program or programs] that should be considered before becoming a client of the [name of program or programs]. This information has not been approved or verified by any governmental authority.</p> <p>(b) a table of contents reflecting the subject headings in the sponsor's brochure;</p> <p>(c) the amount of the wrap fee charged for each program or, if fees vary according to a schedule established by the sponsor, a table setting forth the fee schedule, whether such fees are negotiable, the portion of the total fee (or the range of such amounts) paid to persons providing advice to clients regarding the purchase or sale of specific securities under the program ("portfolio managers"), and the services provided under each program (including the types of portfolio management services);</p>

# State Corporation Commission

Schedule H of  
Form ADV  
Page 2

Applicant:	SEC File Number:	DATE:
	801-	MM/DD/YY

(d) a statement that the program may cost the client more or less than purchasing such services separately and a statement of the factors that bear upon the relative cost of the program (e.g., the cost of the services if provided separately and the trading activity in the client's account);

(e) if applicable, a statement that the person recommending the program to the client receives compensation as a result of the client's participation in the program, that the amount of this compensation may be more than what the person would receive if the client participated in other programs of the sponsor or paid separately for investment advice, brokerage, and other services, and that the person may therefore have a financial incentive to recommend the wrap fee program over other programs or services;

(f) a description of the nature of any fees that the client may pay in addition to the wrap fee and the circumstances under which these fees may be paid (including, if applicable, mutual fund expenses and mark-ups, mark-downs or spreads paid to market makers from whom securities were obtained by the wrap fee broker);

(g) how the program's portfolio managers are selected and reviewed, the basis upon which portfolio managers are recommended or chosen for particular clients, and the circumstances under which the sponsor will replace or recommend the replacement of the portfolio manager;

(h) (1) if applicable, a statement to the effect that portfolio manager performance information is not reviewed by the sponsor or a third party and/or that performance information is not calculated on a uniform and consistent basis,

(2) if performance information is reviewed to determine its accuracy, the name of the party who reviews the information and a brief description of the nature of the review,

(3) a reference to any standards (i.e., industry standards or standards used solely by the sponsor) under which performance information may be calculated;

(i) a description of the information about the client that is communicated by the sponsor to the client's portfolio manager, and how often or under what circumstances the sponsor provides updated information about the client to the portfolio manager;

(j) any restrictions on the ability of clients to contact and consult with portfolio managers;

(k) in narrative text, the information required by Items 7 and 8 of Part II of this form and, as applicable to clients of the wrap fee program, the information required by Items 2, 5, 6, 9A and C, 10, 11, 13 and 14 of Part II;

(l) if any practice or relationship disclosed in response to Item 7, 8, 9A, 9C and 13 of Part II presents a conflict between the interests of the sponsor and those of its clients, explain the nature of any such conflict of interest; and

(m) if the sponsor or its divisions or employees covered under the same investment adviser registration as the sponsor act as portfolio managers for a wrap fee program described in the brochure, a brief, general description of the investments and investment strategies utilized by those portfolio managers.

**8. Organization and Cross References.** Except for the cover page requirements in Item 7(a) above, information contained in the brochure need not follow the order of the items listed in Item 7. However, the brochure should not be organized in such a manner that important information called for by the form is obscured.

Set forth below the page(s) of the brochure on which the various disclosures required by Item 7 are provided.

	Page(s)		Page(s)		Page(s)
Item 7(a)	cover	Item 7(f)		Item 7(j)	
#7(b)		#7(g)		#7(k)	
#7(c)		#7(h)		#7(l)	
#7(d)		#7(i)		#7(m)	
#7(e)					

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**Title of Regulation:** Virginia Retail Franchising Act Rules and Forms (REPEALING).

VA.R. Doc. No. R95-414; Filed April 7, 1995, 10:48 a.m.

**Title of Regulation:** The Uniform Franchise Offering Circular Rules.

**Case No.:** SEC950020.

**Statutory Authority:** §§ 12.1-13 and 13.1-572 of the Code of Virginia.

**Notice to Interested Persons:**

The Virginia State Corporation Commission will consider adopting proposed changes to its rules promulgated under the Securities Act. The proposed changes are summarized below.

All of the existing Retail Franchising Act rules and forms will be repealed and replaced with new rules and forms modeled on "The Uniform Franchise Offering Circular Guidelines" adopted by the North American Securities Administrators Association, Inc., on April 25, 1993 (the Uniform Guidelines are published in NASAA Reports (CCH) paragraph 3901 et seq.). The new rules will be renumbered and reformatted in accordance with the style guidelines contained in the Virginia Register Form, Style and Procedure Manual (1995).

Copies of this proposal are available from the State Corporation Commission, Division of Securities and Retail Franchising, P.O. Box 1197, Richmond, VA 23209-1197, (804) 371-9187, FAX (804) 371-9911. Written comments are invited. Any interested person who files objections to the proposed changes will, if so requested, be afforded an opportunity to present evidence and be heard in regard to such objections.

Comments and requests for hearing should be sent to the State Corporation Commission, Document Control Center, P.O. Box 2118, Richmond, VA 23216, and must be received by May 17, 1995. Documents filed in regard to the Retail Franchising Act Rules should refer to Case No. SEC950020. Interested persons who file objections and request to be heard, or who ask to be notified, will be notified of the date, time and place of the hearing.

**The Uniform Franchise Offering Circular Rules.**

**§ 1. Definitions.**

"Commission" means Virginia State Corporation Commission.

"Effective date" means the date on which the franchise becomes registered under the provisions of § 13.1-561 of the Code of Virginia.

"Effective registration" means authorization to offer and grant one or more franchises provided that the initial contracts or agreements are substantially identical in their terms or provisions. Whenever the franchisor offers or grants more than one franchise and the resulting contracts or agreements vary substantially in their terms or provisions, separate

franchises will be deemed to have been offered or granted and separate registration will be required. For the purpose of this rule, substantial variation in the contract will relate without limitation to different products, services, fees charged, dues imposed, obligations incurred or investments required to be made by contract or agreement.

"Franchise broker" means a person engaged in the business of representing a franchisor or subfranchisor in offering for sale or selling a franchise, except anyone whose identity and business experience are otherwise required to be disclosed in Item 11 in the body of the disclosure document.

"Material change" includes a fact, circumstance, or condition which would have a substantial likelihood of influencing a reasonable prospective franchisee in the making of a decision relating to the purchase of a franchise.

"UFOC" means Uniform Franchise Offering Circular.

"Virginia Retail Franchising Act" means § 13.1-557 et seq. of the Code of Virginia.

**§ 2. Preliminary statement.**

Follow these rules for each item in franchise applications and disclosures in the UFOC.

The following rules shall be adhered to with respect to applications for registration, applications for renewal of registration, and amendments filed with the commission pursuant to Chapter 8 (§ 13.1-557 et seq.) of Title 13.1 of the Code of Virginia.

**§ 3. Original registration application; documents to file.**

A. An application for registration of a franchise is made by filing with the commission the following completed forms and other material:

1. Uniform Franchise Registration Application page (also known as "Facing Page"), Form A;
2. Supplemental Information page(s), Form B;
3. Certification page, Form C;
4. Uniform Consent to Service of Process, Form D;
5. If the applicant is a corporation or partnership, an authorizing resolution if the application is verified by a person other than applicant's officer or general partner;
6. Uniform Franchise Offering Circular;
7. Application fee; and
8. Auditor's consent (or a photocopy of the consent) to the use of the latest audited financial statements in the offering circular.

B. Examples of Forms A through D are printed at the end of these rules.

**§ 4. Pre-effective and post-effective amendments to the registration.**

Upon the occurrence of a material change, the franchisor shall amend the effective registration filed at the commission. An amendment to an application filed either before or after the

# State Corporation Commission

effective date of registration shall include only the pages containing the information being amended. The information being amended shall be identified by item, shall be underscored in red or identified in some other appropriate manner, and shall be verified by means of the prescribed certification page (Form C). Each amendment shall be accompanied by a facing page (Form A) on which the applicant shall indicate that the filing is an amendment. The required fee shall accompany all post-effective amendments unless submitted in connection with an application for renewal.

## § 5. Expiration; application to renew the registration.

A franchise registration expires at midnight on the annual date of the registration's effectiveness. An application to renew the franchise registration should be filed 30 days prior to the expiration date in order to prevent a lapse of registration under the Virginia statute. The registrant shall file a renewal application by submitting a facing page (Form A) accompanied by a UFOC and the required fee. Alterations from the text of the UFOC previously filed as a part of registration shall be indicated by means of underscoring.

## § 6. Automatic effectiveness.

An application to amend or renew an effective registration which is accompanied by an executed Affidavit of Compliance on Form E and filed in accordance with § 4 or § 5, above, shall become effective immediately upon receipt by the commission (or upon such later date as the applicant indicates in writing to the commission) unless one or more of the following is applicable:

1. The franchisor has, since the effective date of its most recent application, been convicted of any crime or been held liable in any civil action by final judgment (if such crime or civil action involved a felony, an act of fraud, a misdemeanor involving a franchise, or a violation of the Virginia Retail Franchising Act).

2. The franchisor is insolvent or in danger of becoming insolvent, either in the sense that its liabilities exceed its assets (determined in accordance with "generally accepted accounting principles") or in the sense that it cannot meet its obligations as they mature.

3. The revised disclosure document submitted in connection with the application to amend/renew is not in compliance with the requirements of § 8 E, below.

If the application does not qualify for automatic effectiveness, it shall become effective as of the date it is granted by the commission.

## § 7. Consent to service of process.

If the franchisor is not a Virginia corporation or a foreign corporation authorized to transact business in the Commonwealth of Virginia, the franchisor shall execute the Consent to Service of Process on Form D. If the franchisor is a Virginia corporation or a foreign corporation authorized to transact business in the Commonwealth of Virginia, a Consent to Service of Process is not necessary.

The Division of Securities and Retail Franchising does not handle the qualification of foreign corporations. Qualification

of foreign corporations is handled by the Clerk of the State Corporation Commission (804) 371-9672, P. O. Box 1197, Richmond, Virginia 23209. Qualification must be completed prior to the filing of the application.

## § 8. Disclosure requirements; definition of disclose.

A. "Disclose" means to state the material facts in an accurate and unambiguous manner. Disclosure shall be clear, concise and in a narrative form that is understandable by a person unfamiliar with the franchise business. For clear and concise disclosure avoid legal antiques<sup>1</sup> and repetitive phrases.<sup>2</sup> When possible, use active, not passive voice.<sup>3</sup> Limit the length and complexity of disclosure through careful organization of information in the disclosure. Avoid technical language and unnecessary detail. Make the format and chronological order consistent within each item.

B. Since prospective franchisees shall have sufficient disclosure to understand economic commitments and to develop a business plan, Items 5, 6, 7, and 8 of the UFOC shall disclose the minimum and maximum franchisee cost. The franchisor shall provide reasonably available information to allow franchisees to forecast future charges listed in these items and to be paid to persons who are independent of the franchisor. Future payments to the franchisor shall be specific as is required by individual items.

C. The disclosure for each UFOC item shall be separately titled and in the required order. Do not repeat the UFOC question in the offering circular. Respond to each question fully. If the disclosure is not applicable, respond in the negative, but if an answer is required "if applicable," respond only if the requested information applies. Do not qualify a

<sup>1</sup> Avoid these legal antiques. Preferred substitutes are in parentheses: aforesaid; arising from (from); as between; as an inducement for; as part of the consideration; as set forth in (in); as the case may be; at a later point in time; binding upon and inure; commence (begin); condition precedent (before); condition subsequent (after); consist of (are); engaged in the business of offering (offers); for and in consideration of the grant of the franchise; for a period of (for); foregoing; forthwith; from time to time; further; hereby; herein; hereinafter; hereto; heretofore; if necessary; in the event (if); including but not limited to (including); in any manner whatsoever; including without limitation (including); in conjunction with; in connection with; in no event; in the event of (if); in whole or in part; it will be specifically understood that; manner in which; not later than (within, by); not less than (at least); notwithstanding; offers to an individual, corporation or partnership (offer); on behalf of (for); precedent (before); prescribed (required); prior to (before); provided however (but, unless); provided that (if, unless); purporting to; relating to (under); subsequent (after); such (this); so as to (to); so long as (while); thereafter; therefrom; thereof; thereunder; without limiting the foregoing; whatsoever; with respect to.

<sup>2</sup> Avoid repetitive phrases. Preferred substitutes are in parentheses: agrees, acknowledges and recognizes; any and all; are and remain; based upon, related to, or growing out of (because); certified as true and correct (certified); consultation, assistance and guidance (guidance); each and every; equipment, furniture, supplies and inventory set forth on the equipment list attached as Exhibit (items on Exhibit \_\_\_\_); necessary and appropriate; sample, test and review (test); and twenty-three (23) (write as 23).

<sup>3</sup> The preferred phrase is in parentheses: As the franchisor prescribes (you must); being offered (offers); consist of (is); engaged in the business of offering (offer); giving rise to; if it becomes necessary for (if); inure to the benefit of (benefits); is granted the right to (can); is given an opportunity to (can); is required to (must); shall be no less than (a minimum of); shall continue in effect (continues); with the exception of (except).

response with a reference to another document unless permitted by the instructions to that item.

For each item in the UFOC, type the requirement's item title and number. Sub-items may be designated by descriptive headings, but do not use sub-item letters and numbers.

## D. Additional requirements for disclosure are:

1. Separate documents (for example, a confidential operations manual) must not make representations or impose terms that contradict or are materially different from the disclosure in the offering circular.
2. Use 8½ by 11 inch paper for the entire application.
3. When the applicant is a master franchisor seeking to sell subfranchises, references in these requirements and instructions to "franchisee" include the subfranchisor unless the language context requires a different meaning.
4. The offer of subfranchises is an offer separate from the offer of franchises and usually requires a separate registration. A single application may register the sale of single unit and multi-unit franchises if the offering circular is not confusing.
5. When the applicant is a subfranchisor, disclose to the extent applicable the same information concerning the subfranchisor that is required about the franchisor.
6. In offerings by a subfranchisor, "franchisor" means both the franchisor and subfranchisor.
7. The commission may modify or waive these rules or may require additional documentation or information.
8. Grossly deficient applications may be rejected summarily by the commission as incomplete for filing.

## E. The instructions on the preparation of the UFOC that continue after these provisions use the following format:

1. The title of the item follows the item number. It is capitalized and centered on the page.
2. The "Item" is a restatement of the UFOC item requirement. It is capitalized and follows the title of the item.
3. The "Instruction" appears beneath the item. It explains portions of the item requirements.
4. The "Sample Answer" at the end of each item provides sample disclosures. Double horizontal lines divide the Sample Answer from the Instructions.

## § 9. Requirements for UFOC preparation.

**COVER PAGE:** The state cover page of the offering circular must state:

1. The title in boldface type: **FRANCHISE OFFERING CIRCULAR**
2. The franchisor's name, type of business organization, principal business address and telephone number.
3. A sample of the primary business trademark, logotype, trade name, or commercial label or symbol under which

the franchisee will conduct its business. (Place in upper left-hand corner of the cover page.)

4. A brief description of the franchised business.
5. The total amounts in Items 5 and 7 of the offering circular: Franchisee's Initial Franchise Fee or Other Payment and Franchisee's Initial Investment.

## 6. The following statements:

Information comparing franchisors is available. Call the state administrators listed in Exhibit \_\_\_\_ or your public library for sources of information.

Registration of this franchise by a state does not mean that the state recommends it or has verified the information in this offering circular. If you learn that anything in the offering circular is untrue, contact the Federal Trade Commission and (State or Provincial authority).

7. Effective Date: (Leave blank until notified of effectiveness by state regulatory authority.)

## Cover Page Instructions:

- i. Present information in the required order. Except for risk factors or when instructed by the examiner, do not capitalize or underline.
- ii. The estimated cash investment should agree with the Item 7 total. This total should represent the franchisee's entire initial investment minus only exclusions allowed by Item 7. Do not state what the total includes.
- iii. Limit the cover page disclosure to one page unless risk factors require additional space. Disclosure on the cover page should be brief. Limit the description of the business to the product or service offered by the franchisor. Unless required by a state regulator, do not disclose financing arrangements or the franchisee's right to use the trademark. Exclude non-required information unless necessary as a risk factor or required by a state regulator.
- iv. If applicable, disclose the following risk factors using the following language on the cover:

1. THE FRANCHISE AGREEMENT PERMITS THE FRANCHISEE (TO SUE) (TO ARBITRATE WITH) ONLY IN \_\_\_\_ OUT OF STATE (ARBITRATION) (LITIGATION) MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST MORE (TO SUE) (TO ARBITRATE WITH) IN \_\_\_\_ THAN IN YOUR HOME STATE.

2. THE FRANCHISE AGREEMENT STATES THAT LAW GOVERNS THE AGREEMENT, AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW. YOU MAY WANT TO COMPARE THESE LAWS.

3. THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE.

- v. In addition to the above language, disclose other risk factors required by a state regulator.



# State Corporation Commission

- vi. Use capital letters for risk factor disclosure.
- vii. In multi-state offerings in which the franchisor uses a single offering circular, refer to an exhibit to the offering circular for a list of States or Provincial authorities and effective dates.

Sample Cover Page:

(Logo) Franchise Offering Circular

Belmont Mufflers, Inc.  
A Minnesota Corporation  
First Street  
Jackson, Minnesota 55000  
(612) 266-3430

The franchisee will repair and install motor vehicle exhaust systems.

The initial franchise fee is \$10,000. The estimated initial investment required ranges from \$132,700 to \$160,200. This sum does not include rent for the business location.

Risk Factors:

THE FRANCHISE AGREEMENT REQUIRES THAT ALL DISAGREEMENTS BE SETTLED BY ARBITRATION IN MINNESOTA. OUT OF STATE ARBITRATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST YOU MORE TO ARBITRATE WITH US IN MINNESOTA THAN IN YOUR HOME STATE.

Information about comparisons of franchisors is available. Call the state administrators listed in Exhibit \_\_\_\_ or your public library for sources of information.

Registration of this franchise with the state does not mean that the state recommends it or has verified the information in this offering circular. If you learn that anything in this offering circular is untrue, contact the Federal Trade Commission and (State or Provincial authority).

Effective Date:

TABLE OF CONTENTS: INCLUDE A TABLE OF CONTENTS BASED ON THE REQUIREMENTS OF THIS OFFERING CIRCULAR.

TABLE OF CONTENTS INSTRUCTION:

Refer to UFOC Items and state the page where each UFOC Item disclosure begins. List exhibits by letter. Use the following format:

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ITEM	PAGE

## SAMPLE TABLE OF CONTENTS:

### TABLE OF CONTENTS

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#### Item 1

### THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES

#### Item 1 Instructions:

- i. Use the word "we," initials or one or two words to refer to the franchisor. Use different initials or a different one or two words to refer to other persons contracting with the franchisee under the franchise agreement. Except in the 23 Item titles, use these initials or the word(s) to describe these persons or entities throughout the offering circular.

- ii. Define the franchisee as "you" and use this description throughout the offering circular. If the franchisee could be a corporation, partnership or other entity, disclose whether "you" includes the franchisee's owners.
  - iii. "Predecessor" in Item 1 means a person from whom the franchisor acquired directly or indirectly the major portion of the franchisor's assets.
  - iv. The disclosure regarding predecessors need only cover the 10 year period immediately before the close of the franchisor's most recent fiscal year.
  - v. Affiliate in Item 1 means a person (other than a natural person) controlled by, controlling or under common control with the franchisor, which is offering franchises in any line of business or is providing products or services to the franchisees of the franchisor.
  - iii. The franchisor's other business activities;
  - iv. The business to be conducted by the franchisees;
  - v. The general market for the product or service to be offered by the franchisee. (For example, is the market developed or developing? Will the goods be sold primarily to a certain group? Are sales seasonal?)
  - vi. In general terms any regulations specific to the industry in which the franchise business operates. It is not necessary to include laws or regulations that apply to businesses generally.
  - vii. A general description of the competition.
- F. THE PRIOR BUSINESS EXPERIENCE OF THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES INCLUDING:

**DISCLOSE IN SUMMARY FORM:**

- A. THE NAME OF THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES.
- B. THE NAME UNDER WHICH THE FRANCHISOR DOES OR INTENDS TO DO BUSINESS.

**Item 1B Instruction:**

If the franchisor does business under a name different from the name disclosed in Item 1A, state that other name. If not, state that the franchisor does not do business under another name.

- C. THE PRINCIPAL BUSINESS ADDRESS OF THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES, AND THE FRANCHISOR'S AGENT FOR SERVICE OF PROCESS.

**Item 1C Instructions:**

- i. Principal business address means "home office" in the United States, not in the state for which the offering circular was prepared. If appropriate, also disclose the location of an international "home office." The business address cannot be a post office box.
- ii. In a multi-state offering in which the agent for service of process is required, the franchisor may use an exhibit or the acknowledgment of receipt to disclose this agent.

**D. THE BUSINESS FORM OF THE FRANCHISOR**

**Item 1D Instruction:**

Disclose the state of incorporation or business organization and the type of business organization.

- E. THE FRANCHISOR'S BUSINESS AND THE FRANCHISES TO BE OFFERED IN THIS STATE.

**Item 1E Instructions:**

Disclose the following:

- i. That the franchisor sells or grants franchises;
- ii. Whether the franchisor operates businesses of the type being franchised;

- (1) THE LENGTH OF TIME THE FRANCHISOR HAS CONDUCTED A BUSINESS OF THE TYPE TO BE OPERATED BY THE FRANCHISEE.
- (2) THE LENGTH OF TIME EACH PREDECESSOR AND AFFILIATE HAS CONDUCTED A BUSINESS OF THE TYPE TO BE OPERATED BY THE FRANCHISEE.
- (3) THE LENGTH OF TIME THE FRANCHISOR HAS OFFERED FRANCHISES FOR THE SAME TYPE OF BUSINESS AS THAT TO BE OPERATED BY THE FRANCHISEE.
- (4) THE LENGTH OF TIME EACH PREDECESSOR AND AFFILIATE OFFERED FRANCHISES FOR THE SAME TYPE OF BUSINESS AS THAT TO BE OPERATED BY THE FRANCHISEE.
- (5) WHETHER THE FRANCHISOR HAS OFFERED FRANCHISES IN OTHER LINES OF BUSINESS, INCLUDING:
  - (A) A DESCRIPTION OF EACH OTHER LINE OF BUSINESS;
  - (B) THE NUMBER OF FRANCHISES SOLD IN EACH OTHER LINE OF BUSINESS; AND
  - (C) THE LENGTH OF TIME THE FRANCHISOR HAS OFFERED EACH OTHER FRANCHISE.
- (6) WHETHER EACH PREDECESSOR AND AFFILIATE OFFERED FRANCHISES IN OTHER LINES OF BUSINESS, INCLUDING:
  - (A) A DESCRIPTION OF EACH OTHER LINE OF BUSINESS;
  - (B) THE NUMBER OF FRANCHISES SOLD IN EACH OTHER LINE OF BUSINESS; AND
  - (C) THE LENGTH OF TIME EACH PREDECESSOR AND AFFILIATE OFFERED EACH OTHER FRANCHISE.

# State Corporation Commission

## Item 1F Instruction:

Limit disclosure about predecessors to the time before the franchisor acquired the predecessor's assets. Thus, under the 10 year limitation, if a franchisor acquired the assets of a predecessor 8 years ago, the disclosure about the predecessor should cover only the 2 year period before the acquisition.

## Sample Answer

To simplify the language in this offering circular "Belmont" means Belmont Mufflers Inc., the franchisor. "You" means the person who buys the franchise. Belmont is a Minnesota corporation that was incorporated on September 3, 1963. Belmont does business as Belmont Muffler Shops. Our principal business address is 111 First Street, Jackson, Minnesota 55555.

Belmont's agent for service of process is disclosed in Exhibit \_\_\_\_\_.

Belmont currently operates 12 Belmont Muffler Shops and sells pipe bending machines and mufflers to various muffler shops.

Belmont franchises the right to sell and install mufflers for the public. You must honor our guarantee to replace mufflers or exhaust pipes that wear out if the vehicle ownership has not changed. Belmont's franchisees often operate their muffler shop franchise with their service stations or tire center. Your competitors include department store service departments, service stations and other national chains of muffler shops. Exhibit \_\_\_\_\_ is attached to this offering circular and contains a summary of the special regulations for muffler installation in your state.

During the past 5 years Belmont has operated 7 muffler shops that are similar to the franchised shops being offered. All these shops are located in urban areas, have approximately xxxxx square feet of floor space and are located on busy streets. An additional 3 muffler shops were opened in 1990. From 1968 to 1973, Belmont offered franchises for "Repair-All Transmission Shops." "Repair-All" franchisees repaired and replaced motor vehicle transmissions under a marketing plan similar to the franchise in this offering circular. Belmont sold 40 of these franchises primarily in the states of Minnesota, Michigan, Wisconsin and Illinois. In 1973, Belmont sold this transmission repair company to CTF Inc.

## Item 2 BUSINESS EXPERIENCE

LIST BY NAME AND POSITION THE DIRECTORS, TRUSTEES AND/OR GENERAL PARTNERS, THE PRINCIPAL OFFICERS AND OTHER EXECUTIVES OR SUBFRANCHISORS WHO WILL HAVE MANAGEMENT RESPONSIBILITY RELATING TO THE FRANCHISES OFFERED BY THIS OFFERING CIRCULAR. LIST ALL FRANCHISE BROKERS. STATE EACH PERSON'S

## PRINCIPAL OCCUPATIONS AND EMPLOYERS DURING THE PAST FIVE YEARS.

### Item 2 Instructions:

- i. Principal officers include the chief executive and chief operating officer, the president, financial, franchise marketing, training and franchise operations officers.
- ii. First disclose the position and the name of the person holding it. Underline this information; then skip one line.
- iii. Disclose the beginning date and departure date for each job held in the five year period whether or not this date is within the past five years. Disclose the location of the job.
- iv. Do not disclose home addresses, home telephones, social security numbers or birth dates in this item.
- v. Disclose the required information concerning the franchise broker's directors, principal officers and executives with management responsibility to market or service the franchises.
- vi. In a multi-state offering in which the franchisor uses a single offering circular and franchise brokers and executives with direct management responsibility to the franchisees differs from state to state, use an exhibit to refer to these personnel.

## Sample Answer

President: Jane J. Doe

From June, 1978, until April, 1986, Ms. Doe was Vice-President of Atlas Inc., a Houston, Texas based manufacturer of automobile wheels. In April, 1986, she joined Belmont as a Director and Vice President. She was promoted to president in June, 1987.

## Item 3 LITIGATION

DISCLOSE WHETHER THE FRANCHISOR, ITS PREDECESSOR, A PERSON IDENTIFIED IN ITEM 2 OR AN AFFILIATE OFFERING FRANCHISES UNDER THE FRANCHISOR'S PRINCIPAL TRADEMARK:

- A. HAS AN ADMINISTRATIVE, CRIMINAL OR MATERIAL CIVIL ACTION PENDING AGAINST THAT PERSON ALLEGING A VIOLATION OF A FRANCHISE, ANTITRUST OR SECURITIES LAW, FRAUD, UNFAIR OR DECEPTIVE PRACTICES, OR COMPARABLE ALLEGATIONS. IN ADDITION, INCLUDE ACTIONS OTHER THAN ORDINARY ROUTINE LITIGATION INCIDENTAL TO THE BUSINESS WHICH ARE SIGNIFICANT IN THE CONTEXT OF THE NUMBER OF FRANCHISEES AND THE SIZE, NATURE OR FINANCIAL CONDITION OF THE FRANCHISE SYSTEM OR ITS BUSINESS OPERATIONS. IF SO, DISCLOSE THE NAMES OF THE PARTIES, THE FORUM, NATURE, AND CURRENT STATUS OF THE PENDING ACTION. FRANCHISOR MAY INCLUDE A SUMMARY OPINION

OF COUNSEL CONCERNING THE ACTION IF A CONSENT TO USE OF THE SUMMARY OPINION IS INCLUDED AS PART OF THIS OFFERING CIRCULAR.

- B. HAS DURING THE 10 YEAR PERIOD IMMEDIATELY BEFORE THE DATE OF THE OFFERING CIRCULAR BEEN CONVICTED OF A FELONY OR PLEADED NOLO CONTENDERE TO A FELONY CHARGE; OR BEEN HELD LIABLE IN A CIVIL ACTION BY FINAL JUDGMENT OR BEEN THE SUBJECT OF A MATERIAL ACTION INVOLVING VIOLATION OF A FRANCHISE, ANTITRUST OR SECURITIES LAW, FRAUD, UNFAIR OR DECEPTIVE PRACTICES, OR COMPARABLE ALLEGATIONS. IF SO, DISCLOSE THE NAMES OF THE PARTIES, THE FORUM AND DATE OF CONVICTION OR DATE JUDGMENT WAS ENTERED, PENALTY OR DAMAGES ASSESSED AND/OR TERMS OF SETTLEMENTS.
- C. IS SUBJECT TO A CURRENTLY EFFECTIVE INJUNCTIVE OR RESTRICTIVE ORDER OR DECREE RELATING TO THE FRANCHISE OR UNDER A FEDERAL, STATE OR CANADIAN FRANCHISE, SECURITIES, ANTITRUST, TRADE REGULATION OR TRADE PRACTICE LAW RESULTING FROM A CONCLUDED OR PENDING ACTION OR PROCEEDING BROUGHT BY A PUBLIC AGENCY. IF SO, DISCLOSE THE NAME OF THE PERSON, THE PUBLIC AGENCY AND COURT, A SUMMARY OF THE ALLEGATIONS OR FACTS FOUND BY THE AGENCY OR COURT AND THE DATE, NATURE, TERMS AND CONDITIONS OF THE ORDER OR DECREE.

## Item 3 Definitions:

- i. For purposes of these instructions to Item 3, "franchisor" includes the franchisor, its predecessors, persons identified in Item 2 and affiliates offering franchises under the franchisor's principal trademarks.
- ii. Action: Action includes complaints, cross claims, counterclaims, and third party complaints in a judicial proceeding, and their equivalents in an administrative action or arbitration proceeding. The franchisor may disclose its counterclaims. Omit actions that were dismissed by final judgment without liability of or entry of an adverse order against the franchisor.
- iii. Included in the definition of material is an action or an aggregate of actions if a reasonable prospective franchisee would consider it important in making a decision about the franchised business.
- iv. In this Item, settlement of an action does not diminish its materiality if the franchisor agrees to pay material consideration or agrees to be bound by obligations which are materially adverse to its interests.
- v. "Ordinary routine litigation" means actions which ordinarily result from the business and which do not depart from the normal kinds of actions in the business.
- vi. "Held liable" includes a finding by final judgment in a judicial, binding arbitration or administrative proceeding that the franchisor, as a result of claims or counterclaims

must pay money or other consideration, must reduce an indebtedness by the amount of an award, cannot enforce its rights, or must take action adverse to its interests.

- vii. "Currently Effective": An injunctive or restrictive order or decree is "currently effective" unless it has been vacated or rescinded by a court or by the issuing public agency. An order that has expired by its own terms is not "currently effective." If the named party(s) have fully complied with an order (for example, through registration of its franchise offer), the order is not "currently effective." A party has not fully complied with an order to act or to refrain from an act (for example to comply with the franchise law or to refrain from violating the franchise law) until the order expires by its own terms.

## Item 3 Instructions:

### Civil litigation, or Injunctive or Restrictive Order:

- viii. Use sample answer 3-1 for a negative response to Item 3 if the franchisor has never been named in litigation or if the only litigation naming the franchisor is outside the scope of Item 3.
- ix. Disclose in the same order as the instructions below appear.
- x. Title each action and state its case number or citation in parentheses. Underline the title of the action.
- xi. For each action state the action's initial filing date and the opposing party's name and relationship with the franchisor. Relationships include competitor, supplier, lessor, franchisee, former franchisee, or class of franchisees.
- xii. Summarize the legal and factual nature of each claim in the action.
- xiii. Summarize the relief sought or obtained. Summarize conclusions of law or fact.
- xiv. State that other than these (list number of actions) no litigation is required to be disclosed in this offering circular.

### Criminal convictions or Pleas:

- xv. Disclose in the same order as the following instructions appear.
- xvi. Title each action and state its citation in parentheses. Underline the title of the action.
- xvii. Name the person convicted or who pleaded.
- xviii. Next, state the crime or violation and the date of conviction.
- xix. Next, disclose the sentence or penalty imposed.
- xx. Lastly, state that other than these (list the number of actions) actions, no litigation is required to be disclosed in this offering circular.

# State Corporation Commission

## Sample Answer 3-1

No litigation is required to be disclosed in this offering circular.

## Sample Answer 3-2

*Doe v. Belmont Muffler Service, Inc. (cite)* On March 1, 1985, our franchisee, Donald Doe, sought to enjoin us from terminating him for nonpayment of royalty fees. Doe alleged \_\_\_\_\_. On April 3, 1986, Doe withdrew the case when we repurchased his franchise for \$90,000 and agreed not to enforce non-compete clauses against him.

*Indiana v. Belmont Muffler Service, Inc. (cite)* On April 1, 1985, the Attorney General of Indiana sought to enjoin us from offering unregistered franchises and from using false income representations. The Attorney General alleged that the earnings claims were false because \_\_\_\_\_. The court found that we had offered franchises, that the offers were not registered and that we had made the alleged false representations in our earnings claims. The court enjoined us from repeating those acts.

Other than these 2 actions, no litigation is required to be disclosed in this offering circular.

### Item 4 BANKRUPTCY

STATE WHETHER THE FRANCHISOR, ITS AFFILIATE, ITS PREDECESSOR, OFFICERS OR GENERAL PARTNER DURING THE 10 YEAR PERIOD IMMEDIATELY BEFORE THE DATE OF THE OFFERING CIRCULAR (A) FILED AS DEBTOR (OR HAD FILED AGAINST IT) A PETITION TO START AN ACTION UNDER THE U.S. BANKRUPTCY CODE; (B) OBTAINED A DISCHARGE OF ITS DEBTS UNDER THE BANKRUPTCY CODE; OR (C) WAS A PRINCIPAL OFFICER OF A COMPANY OR A GENERAL PARTNER IN A PARTNERSHIP THAT EITHER FILED AS A DEBTOR (OR HAD FILED AGAINST IT) A PETITION TO START AN ACTION UNDER THE U.S. BANKRUPTCY CODE OR THAT OBTAINED A DISCHARGE OF ITS DEBTS UNDER THE BANKRUPTCY CODE DURING OR WITHIN 1 YEAR AFTER THE OFFICER OR GENERAL PARTNER OF THE FRANCHISOR HELD THIS POSITION IN THE COMPANY OR PARTNERSHIP. IF SO, DISCLOSE THE NAME OF THE PERSON OR COMPANY THAT WAS THE DEBTOR UNDER THE BANKRUPTCY CODE, THE DATE OF THE ACTION AND THE MATERIAL FACTS.

#### Item 4 Instructions:

- i. First, name the party that filed (or had filed against it) the petition in bankruptcy and the party's relationship to the franchisor. If the debtor in a bankruptcy proceeding was or is affiliated with the franchisor, state the relationship. If the debtor in a bankruptcy proceeding is unaffiliated with the franchisor, state the name, address and principal business of the bankrupt company.
- ii. Disclose that the entity filed bankruptcy or reorganization under the bankruptcy law and the date of the original filing.
- iii. Identify the bankruptcy court, and the case name and number. Put this information in parentheses.

- iv. State the date on which the debtor obtained a discharge in bankruptcy (including discharges under Chapter 7 and confirmation of any plans of reorganization under Chapters 11 and 13 of the U.S. Bankruptcy Code).
- v. Disclose other material facts.
- vi. Cases, actions and other proceedings under the laws of foreign nations relating to bankruptcy proceedings should be included in answers, where responses are required, as if those cases, actions and proceedings took place under the U.S. Bankruptcy Code.
- vii. If information is disclosed in this Item, at the end of the disclosure add sample answer 4-1 with the qualification "other than these actions."
- viii. Use Sample Answer 4-1 if no person listed in Items 1 or 2 has been involved as a debtor in bankruptcy proceedings or any person listed in Items 1 or 2 has been involved as a debtor in bankruptcy proceedings but the bankruptcy proceedings (under the U.S. Bankruptcy Code or its predecessor, the National Bankruptcy Act of 1898) were discharged more than 10 years ago. "Person" includes natural persons and legal entities listed in Items 1 and 2. Person does not include anyone acting solely as the franchisor's agent for service of process.

#### Sample Answer 4-1

No person previously identified in Items 1 or 2 of this offering circular has been involved as a debtor in proceedings under the U.S. Bankruptcy Code required to be disclosed in this Item.

#### Sample Answer 4-2

On March 2, 1984, Belmont filed a petition to reorganize under Chapter 11 of the U.S. Bankruptcy Code. We were allowed to continue to operate under bankruptcy court supervision. On October 2, 1985, the bankruptcy court approved our plan of reorganization and discharged the proceedings. (US Bankruptcy Court for the District of \_\_\_\_\_ Case B 84-301).

Belmont's present president, Roger Rowe, was president of Acme Muffler Service, Inc., a Houston, Texas based manufacturer of exhaust systems, from July 1, 1978, through June 14, 1983. On June 6, 1983, an involuntary petition under the U.S. Bankruptcy Code was filed against Acme by its creditors. On July 14, 1983, the court entered an order of relief. Acme sold its assets and was dissolved.

Other than these 2 actions, no person previously identified in Items 1 or 2 of this offering circular has been involved as a debtor in proceedings under the U.S. Bankruptcy Code required to be disclosed in this Item.

Item 5  
INITIAL FRANCHISE FEE

DISCLOSE THE INITIAL FRANCHISE FEE AND STATE THE CONDITIONS WHEN THIS FEE IS REFUNDABLE.

Item 5 Instructions:

- i. "Initial fee" includes all fees and payments for services or goods received from the franchisor before the franchisee's business opens. "Initial fee" includes all fees and payments whether payable in lump sum or installments.
- ii. If the initial fee is not uniform, disclose the formula or the range of initial fees paid in the fiscal year before the application date and the factors that determined the amount.
- iii. Disclose installment payment terms in this Item or in Item 10.

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Sample Answer 5-1

All franchisees pay a \$10,000 lump sum franchise fee when they sign the franchise agreement. Belmont will refund the entire amount if we do not approve your application within 45 days. Belmont will refund \$9,000 of this fee if you do not satisfactorily complete your 2-week training. There are no refunds under other circumstances.

Sample Answer 5-2

You must pay a franchise license fee of \$\_\_\_\_\_ per thousand licensed drivers who reside within your exclusive area when the franchise agreement is signed. The number of licensed drivers is determined by the latest abstract of the state agency which issues driver's licenses. The minimum fee is \$20,000. When you send your application, you must pay a non-refundable \$500 application fee. You must pay an additional \$10,000 when you receive your equipment. The balance of your fee is payable in 12 equal monthly installments of \$\_\_\_\_\_. The first installment payment is due 1 year after your shop opens. Belmont charges 10% annual interest on the unpaid balance. Interest compounds daily and accrues from the date that you receive your equipment. All buyers pay this uniform fee and receive the same financing terms on the fee. If your application is not accepted, Belmont retains the \$500 for investigative costs, but you are not liable for the

\$19,500 remainder. Belmont does not give refunds under other circumstances.

Item 6  
OTHER FEES

DISCLOSE OTHER RECURRING OR ISOLATED FEES OR PAYMENTS THAT THE FRANCHISEE MUST PAY TO THE FRANCHISOR OR ITS AFFILIATES OR THAT THE FRANCHISOR OR ITS AFFILIATES IMPOSE OR COLLECT IN WHOLE OR IN PART ON BEHALF OF A THIRD PARTY. INCLUDE THE FORMULA USED TO COMPUTE THESE OTHER FEES AND PAYMENTS. IF ANY FEE IS REFUNDABLE, STATE THE CONDITIONS WHEN EACH FEE OR PAYMENT IS REFUNDABLE.

Item 6 Instructions:

- i. First disclose fees in tabular form. Use footnotes or a "remarks" column to elaborate on the information in the table or to disclose caveats. If elaborations are lengthy, use footnotes instead of a remarks column.
- ii. Disclose the amount of each fee. A dollar amount or a percentage of gross sales is acceptable if the term gross sales is defined. If dollar amounts may increase, disclose the formula which determines the increase or the maximum amount of the increase.
- iii. Disclose the due date for recurring payments.
- iv. If all fees are payable to only the franchisor, disclose this in a footnote.
- v. If all fees are imposed and collected by the franchisor, disclose this in a footnote.
- vi. If all fees are nonrefundable, state this in a footnote.
- vii. Disclose the voting power of franchisor owned outlets on any fees imposed by cooperatives. If franchisor outlets have controlling voting power, disclose a range for the fee. Disclose this information in a footnote or a "remarks" column.
- viii. The franchisor need not repeat information contained in Items 8 and 9, but the table should direct the franchisees to those Items.
- ix. Examples of fees are royalty, lease negotiation, construction, remodeling, additional training, advertising, group advertising, additional assistance, audit, accounting/inventory, and transfer and renewal fee.

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## Sample Answer 6-1

Name of fee	Amount	Due Date	Remarks
Royalty <sup>1</sup>	4% of total gross sales	Payable monthly on the 10th day of the next month	Gross sales includes all revenues from the franchise location. Gross sales does not include sales tax or use tax.
Advertising	2% of total gross sales	Same as Royalty fee	
Cooperative Advertising	Maximum - 2% of total gross sales	Established by franchisees	Franchisees may form an advertising cooperative and establish local advertising fees. Company owned stores have no vote in these cooperatives.
Additional Training	\$1,000 per person	2 weeks prior to beginning of training	Belmont trains 2 persons free - See Item 11
Additional Assistance	\$500 per day	30 days after billing	Belmont provides opening assistance free-See Item 11
Transfer	\$1,000	Prior to consummation of transfer	Payable when you sell your franchise. No charge if franchise transferred to a corporation which you control.
Audit	Cost of audit plus 10% interest on underpayment <sup>2</sup>	30 days after billing	Payable only if audit shows an understatement of at least 2% of gross sales for any month.
Renewal Fee	\$1,000	30 days before renewal	

<sup>1</sup>All fees are imposed by and are payable to Belmont. All fees are nonrefundable.

<sup>2</sup>Interest begins from the date of underpayment.

## Item 7 INITIAL INVESTMENT

DISCLOSE THE FOLLOWING EXPENDITURES STATING TO WHOM THE PAYMENTS ARE MADE, WHEN PAYMENTS ARE DUE, WHETHER EACH PAYMENT IS REFUNDABLE, THE CONDITIONS WHEN EACH PAYMENT IS REFUNDABLE, AND, IF PART OF THE FRANCHISEE'S INITIAL INVESTMENT IN THE FRANCHISE MAY BE FINANCED, AN ESTIMATE OF THE LOAN REPAYMENTS, INCLUDING INTEREST:

- A. REAL PROPERTY, WHETHER PURCHASED OR LEASED. IF NEITHER ESTIMABLE NOR DESCRIBABLE BY A LOW-HIGH RANGE, DESCRIBE REQUIREMENTS, SUCH AS PROPERTY TYPE, LOCATION AND BUILDING SIZE.
- B. EQUIPMENT, FIXTURES, OTHER FIXED ASSETS, CONSTRUCTION, REMODELING, LEASEHOLD IMPROVEMENTS AND DECORATING COSTS, WHETHER PURCHASED OR LEASED.
- C. INVENTORY REQUIRED TO BEGIN OPERATION.
- D. SECURITY DEPOSITS, UTILITY DEPOSITS, BUSINESS LICENSES, OTHER PREPAID EXPENSES.
- E. ADDITIONAL FUNDS REQUIRED BY THE FRANCHISEE BEFORE OPERATIONS BEGIN AND DURING THE INITIAL PHASE OF THE FRANCHISE.

## F. OTHER PAYMENTS THAT THE FRANCHISEE MUST MAKE TO BEGIN OPERATIONS.

### Item 7 Instructions:

- i. Begin disclosure by listing expenditures in tabular form. List preopening expenses first. Use footnotes to comment on expected expenditures.
- ii. Disclose payments required by the franchise agreement and all costs necessary to begin operation of the franchise and operate the franchise during the initial phase of the business. A reasonable time for the initial phase of the business is at least 3 months or a reasonable period for the industry. Include an entry titled "additional funds" and disclose the length of the initial phase in the entry.
- iii. If a specific expenditure amount is not ascertainable, use a low-high range based on the franchisor's current experience. If real property costs can not be estimated in a low-high range, disclose the approximate size of the property and building involved. Describe the probable location of the building (for example, strip shopping center, mall, downtown, rural or highway).
- iv. The franchisor may include additional expenditure tables to show expenditure variations caused by differences in site location, premise size, etc. Describe in general terms the factors, basis and experience that the franchisor considered or relied upon in formulating the amount required for additional funds.

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v. If the franchisor or an affiliate finances part of the initial investment, state the expenditures that it will finance. State the required down payment, annual percentage rate of interest, rate factors, and the estimated loan

repayments. Make the discussion brief, and refer to Item 10.

vi. Total the initial investment. This total should be the same as the total investment on the offering circular cover.

## SAMPLE ANSWER 7

### YOUR ESTIMATED INITIAL INVESTMENT

	AMOUNT	METHOD OF PAYMENT	WHEN DUE	TO WHOM PAYMENT IS TO BE MADE
INITIAL FRANCHISE FEE	\$10,000 (Note 1)	Lump Sum	At Signing of Franchise Agreement	Belmont, Inc.
TRAVEL AND LIVING EXPENSES WHILE TRAINING	\$2,500 to \$5,000	As Incurred	During Training	Airlines, Hotels and Restaurants
REAL ESTATE AND IMPROVEMENTS	(Note 2)	(Note 2)	(Note 2)	(Note 2)
EQUIPMENT	\$40,000 (Note 3)	Lump Sum	Prior to Opening	Belmont or vendors
SIGNS	\$2,200	Lump Sum	Prior to Opening	Abbey Sign Company
MISCELLANEOUS OPENING COSTS	\$8,000 (Note 4)	As Incurred	As Incurred	Suppliers, Utilities, etc.
OPENING INVENTORY	\$8,000 (Note 5)	Lump Sum	Prior to Opening	Belmont or vendors
VERTISING FEE - 3 months	\$500		Monthly	Belmont
ADDITIONAL FUNDS - 3 Months	\$50,000 to \$75,000 (Note 6)	As Incurred	As Incurred	Employees, Suppliers, Utilities
TOTAL	\$132,700 to \$160,200 (Notes 7 & 8)	(Does not include real estate costs)		

#### Notes:

- (1) See Item 5 for the conditions when this fee is partly refundable. Belmont does not finance any fee.
- (2) If you do not own adequate shop space, you must lease the land and building for the Belmont Muffler Shop. Typical locations are light industrial and commercial areas. The typical Belmont Muffler Shop has 5,000 - 8,000 square feet. Former three or four bay gasoline service stations have been converted with relative ease into Belmont Muffler Shops. Rent is estimated to be between \$12,000 - 20,000 per year depending on factors such as size, condition and location of the leased premises.
- (3) This payment is fully refundable before equipment installation. After installation, Belmont deducts \$3,000 installation costs from your refund.
- (4) Includes security deposits, utility costs, incorporation fee.
- (5) This payment is fully refundable before Belmont delivers your inventory. After delivery Belmont deducts a 10% restocking fee from your refund.
- (6) This estimates your initial start up expenses. These expenses include payroll costs. These figures are estimates and Belmont cannot guarantee that you will not have additional expenses starting the business. Your costs will depend on factors such as: how much you follow Belmont's methods and procedures; your management skill, experience and business acumen; local economic conditions; the local market for our product; the prevailing wage rate; competition; and the sales level reached during the initial period.
- (7) Belmont relied on its 30 years of experience in the muffler business to compile these estimates. You should review these figures carefully with a business advisor before making any decision to purchase the franchise.
- (8) Belmont does not offer direct or indirect financing to franchisees for any items.



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# State Corporation Commission

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## Item 8

### RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

DISCLOSE FRANCHISEE OBLIGATIONS TO PURCHASE OR LEASE FROM THE FRANCHISOR ITS DESIGNEE OR FROM SUPPLIERS APPROVED BY THE FRANCHISOR OR UNDER THE FRANCHISOR'S SPECIFICATIONS. FOR EACH OBLIGATION DISCLOSE:

- A. THE GOODS, SERVICES, SUPPLIES, FIXTURES, EQUIPMENT, INVENTORY, COMPUTER HARDWARE AND SOFTWARE OR REAL ESTATE RELATING TO ESTABLISHING OR OPERATING THE FRANCHISED BUSINESS.
- B. THE MANNER IN WHICH THE FRANCHISOR ISSUES AND MODIFIES SPECIFICATIONS OR GRANTS AND REVOKES APPROVAL TO SUPPLIERS.
- C. WHETHER, AND FOR WHAT CATEGORIES OF GOODS AND SERVICES, THE FRANCHISOR OR ITS AFFILIATES ARE APPROVED SUPPLIERS OR THE ONLY APPROVED SUPPLIERS.
- D. WHETHER, AND IF SO, THE PRECISE BASIS BY WHICH THE FRANCHISOR OR ITS AFFILIATES WILL OR MAY DERIVE REVENUE OR OTHER MATERIAL CONSIDERATION AS A RESULT OF REQUIRED PURCHASES OR LEASES.
- E. THE ESTIMATED PROPORTION OF THESE REQUIRED PURCHASES AND LEASES TO ALL PURCHASES AND LEASES BY THE FRANCHISEE OF GOODS AND SERVICES IN ESTABLISHING AND OPERATING THE FRANCHISED BUSINESS.
- F. THE EXISTENCE OF PURCHASING OR DISTRIBUTION COOPERATIVES.

#### Item 8 Instructions:

- i. An obligation includes those imposed by written agreement or by the franchisor's practice. The franchisor may include the reason for the requirement.
- ii. Do not include goods or services provided as part of the franchise and without a separate charge (for example, a fee for initial training when the cost is included in the franchise fee). These fees should be described in Item 5. Do not include fees disclosed in response to Item 6.
- iii. For "precise basis," disclose the franchisor's total revenues and the franchisor's revenues from all required purchases and leases of products and services. Also, disclose the percentage of the franchisor's total revenues represented by the franchisor's revenues from required purchases or leases. If the franchisor's affiliates also sell or lease products or services to franchisees, disclose affiliate revenues from those sales or leases. These amounts should be taken from the franchisor's statement of operations (or profit and loss statement) from the most recent annual audited financial statement attached to the offering circular. If the franchisor's annual audited financial statement is not required to be attached to the offering circular or if the franchisor's affiliate sells or

leases required products or services to franchisees, disclose the sources of information used in computing revenues.

- iv. State how the franchisor formulates and modifies specifications and standards imposed on franchisees.
- v. Disclose whether specifications and standards are issued to franchisees, subfranchisors, or approved suppliers.
- vi. Describe how suppliers are evaluated, approved or disapproved. Disclose whether the franchisor's criteria for supplier approval are available to franchisees. State the fees and procedure to secure approval and how approvals are revoked. State the time period when the franchisee will receive notification of approval or disapproval.
- vii. If the designated supplier will make payments to the franchisor because of transactions with franchisees, disclose the basis for the payment. Specify a percentage or a flat amount. Purchases of similar goods or services by the franchisor at a lower price than that available to franchisees is a payment.
- viii. Disclose whether the franchisor negotiates purchase arrangements with suppliers (including price terms) for the benefit of franchisees.
- ix. Disclose whether the franchisor provides material benefits (for example renewal or granting additional franchises) to a franchisee based on a franchisee's use of designated or approved sources.
- x. Use sample answer 8-1 if the response to Item 8 is negative.

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#### Sample Answer 8-1

Belmont has no required specifications, designated suppliers, or approved suppliers for goods, services or real estate relating to your franchise business. Belmont will not derive revenue from your purchases or leases.

#### Sample Answer 8-2

You must purchase your pipe bending machine, hoist, cutting torch and supplies under specifications in the operations manual. These specifications include standards for delivery, performance, design and appearance. You may purchase this equipment from Belmont. In the year ending December 31, 1992, Belmont's revenues from the sale of this equipment to franchisees was \$500,000, or 5% of Belmont's total revenues of \$10,000,000. The cost of equipment purchased in accordance with specifications represents 10% of your total purchases in connection with establishment of your store.

Belmont's affiliate, Muffler Supply Co., is an approved supplier of mufflers to franchisees. In the year ending December 31, 1992, the affiliate's revenues from the sale of mufflers to franchisees was \$2,000,000. The purchase of mufflers from approved sources will represent 15 to 20% of your overall purchases in operating the store. Belmont has approved other

suppliers of mufflers and exhaust pipe. If you would like to purchase these items from another supplier, you may request our "Supplier Approval Criteria and Request Form." Based on the information and samples you supply to us and your payment of a \$500 fee, we will test the items supplied and review the proposed supplier's financial records, business reputation, delivery performance, credit rating and other information. Our review typically is completed in 30 days.

One of the approved suppliers of mufflers and exhaust pipes, Scottie's Pipes, Inc., pays Belmont a rebate of 1% of all franchisee purchases, which is deposited in the Belmont Advertising Fund. Another approved supplier, Michael's Clean-Air, Inc., pays Belmont 2% of all franchisee purchases of catalytic converters. This amount is used in Belmont's training center for classes in catalytic converter repair and replacement.

## Item 9

### FRANCHISEE'S OBLIGATIONS

DISCLOSE THE PRINCIPAL OBLIGATIONS OF THE FRANCHISEE UNDER THE FRANCHISE AND OTHER AGREEMENTS AFTER THE SIGNING OF THESE AGREEMENTS.

#### Item 9 Instructions:

- i. Disclose obligations in tabular form. Refer to the section of the agreement that contains the obligation and any Item of the Offering Circular that further describes the obligation.
- ii. The table should contain a response to each category listed below. If the response to any category is that no obligation is imposed, the table should state that. Do not change the names of the categories. Fit all obligations within the listed categories. If other material obligations fall outside the scope of all of the prescribed categories, add additional categories as needed. The categories of franchisee obligations are:
  - a. Site selection and acquisition/lease
  - b. Pre-opening purchases/leases
  - c. Site development and other pre-opening requirements

- d. Initial and ongoing training
- e. Opening
- f. Fees
- g. Compliance with standards and policies/Operating Manual
- h. Trademarks and proprietary information
- i. Restrictions on products/services offered
- j. Warranty and customer service requirements
- k. Territorial development and sales quotas
- l. Ongoing product/service purchases
- m. Maintenance, appearance and remodeling requirements
- n. Insurance
- o. Advertising
- p. Indemnification
- q. Owner's participation/management/staffing
- r. Records and reports
- s. Inspections and audits
- t. Transfer
- u. Renewal
- v. Post-termination obligations
- w. Non-competition covenants
- x. Dispute resolution
- y. Other (describe)

#### iii. Before the table, state the following:

THIS TABLE LISTS YOUR PRINCIPAL OBLIGATIONS UNDER THE FRANCHISE AND OTHER AGREEMENTS. IT WILL HELP YOU FIND MORE DETAILED INFORMATION ABOUT YOUR OBLIGATIONS IN THESE AGREEMENTS AND IN OTHER ITEMS OF THIS OFFERING CIRCULAR.

#### Sample Answer 9

THIS TABLE LISTS YOUR PRINCIPAL OBLIGATIONS UNDER THE FRANCHISE AND OTHER AGREEMENTS. IT WILL HELP YOU FIND MORE DETAILED INFORMATION ABOUT YOUR OBLIGATIONS IN THESE AGREEMENTS AND IN OTHER ITEMS OF THIS OFFERING CIRCULAR.

Obligation	Section in Agreement	Item in Offering Circular
a. Site selection and acquisition/lease	Section 2A of Franchise Agreement	Items 6 and 11
b. Pre-opening purchases/leases	Section 3D of Franchise Agreement	Item 8
c. Site development and other pre-opening requirements	Sections 3A and 3B of Franchise Agreement	Items 6, 7 and 11
d. Initial and ongoing training	Section 5 of Franchise Agreement	Item 11
e. Opening	Section 4 of Franchise Agreement	Item 11

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f. Fees	Section 6 of Franchise Agreement	Items 5 and 6
g. Compliance with standards and policies/Operating Manual	Section 8A of Franchise Agreement	Item 11
h. Trademarks and proprietary information	Sections 7 and 11 of Franchise Agreement	Items 13 and 14
i. Restrictions on products/services offered	Section 12 of Franchise Agreement	Item 16
j. Warranty and customer service requirements	Section 8B of Franchise Agreement	Item 11
k. Territorial development and sales quotas	None	
l. Ongoing product/service purchases	Section 9 of Franchise Agreement	Item 8
m. Maintenance, appearance and remodeling requirements	Sections 8C and 10 of Franchise Agreement	Item 11
n. Insurance	Section 13A of Franchise Agreement	Items 6 and 8
o. Advertising	Section 15 of Franchise Agreement	Items 6 and 11
p. Indemnification	Section 13B of Franchise Agreement	Item 6
q. Owner's participation/management/staffing	Sections 4, 5 and 14 of Franchise Agreement	Items 11 and 15
r. Records/reports	Section 17A of Franchise Agreement	Item 6
s. Inspections/audits	Section 17B of Franchise Agreement	Items 6 and 11
t. Transfer	Section 18 of Franchise Agreement	Item 17
u. Renewal	Section 20 of Franchise Agreement	Item 17
v. Post-termination obligations	Section 22 of Franchise Agreement	Item 17
w. Non-competition covenants	Sections 11, 18 and 22C of Franchise Agreement	Item 17
x. Dispute resolution	Section 24 of Franchise Agreement	Item 17

## Item 10 FINANCING

DISCLOSE THE TERMS AND CONDITIONS OF EACH FINANCING ARRANGEMENT THAT THE FRANCHISOR, ITS AGENT OR AFFILIATES OFFERS DIRECTLY OR INDIRECTLY TO THE FRANCHISEE, INCLUDING:

Item 10 Instructions:

- i. "Financing" includes leases and installment contracts.
- ii. Payments due within 90 days on open account financing need not be disclosed under this Item.
- iii. A written arrangement between a franchisor or its affiliate and a lender for the lender to offer financing to the franchisee or an arrangement in which a franchisor or its affiliate receives a benefit from a lender for franchisee financing is an "indirect offer of financing" and must be disclosed under this Item. The franchisor's guarantee of a note, lease or obligation of the franchisee is an "indirect offer of financing" and must be disclosed under this Item.
- iv. If financing of the initial fee is disclosed in the Item 7 disclosure, a cross reference to Item 7 is sufficient if all the disclosure which Item 10 requires is provided in Item 7.

- v. If an affiliate offers financing, identify the affiliate and its relationship to the franchisor.
- vi. The franchisor may summarize the terms of each financing arrangement in tabular form, using footnotes to entries in the chart to provide additional information required by these instructions that does not fit in the chart.
- vii. If a financing arrangement is for the establishment of the franchised business, disclose what the financing covers, including:
  - a) Initial franchise fee;
  - b) Site acquisition;
  - c) Construction or remodeling;
  - d) Equipment or fixtures; and
  - e) Opening inventory or supplies.
- viii. If the franchisor generally offers financing for the operation of the franchised business, disclose what the financing arrangement covers, including:
  - a) Inventory or supplies;
  - b) Replacement equipment or fixtures; and

- c) Other continuing expenses.
- ix. Disclose the terms of each financing arrangement, including:
  - a) The identity of the lender(s) providing the financing and its relationship to the franchisor (for example, affiliate);
  - b) The amount of financing offered or, if the amount depends on an actual cost that may vary, the percentage of the cost that will be financed;
  - c) The annual percentage rate of interest ("APR") charged, computed as provided by Sections 106-107 of the Consumer Protection Credit Act, 15 U.S.C. §§ 106-107. If the APR may differ depending on when the financing is issued, disclose the APR on a specified recent date;
  - d) The number of payments or the period of repayment;
  - e) Nature of security interest required by the lender;
  - f) Whether a person other than the franchisee (for example spouse, shareholder of the franchisee) must personally guarantee the debt;
  - g) Whether the debt can be prepaid and the nature of any prepayment penalty;
  - h) The franchisee's potential liabilities upon default, including any accelerated obligation to pay the entire amount due, court costs and attorney's fees for collection, and termination of the franchise, or other cross default clauses whether directly, as a result of non-payment, or indirectly, as a result of loss of necessary facilities; and
  - i) Other material financing terms.
- x. Include specimen copies of the financing documents as an exhibit to Item 22. Cite the section and name of the document containing the financing terms. Put this information in parentheses at the end of the description of the term.
- xi. Use Sample Answer 10-1 if the franchisor does not offer financing.

**A. A WAIVER OF DEFENSES OR SIMILAR PROVISIONS IN A DOCUMENT.**

**Item 10A Instructions:**

- i. Disclose the terms of waivers of legal rights by the franchisee under the terms of the financing arrangement (for example confession of judgment).
- ii. Describe provisions of the loan agreement that bar the franchisee from asserting a defense against the lender, the lender's assignee or the franchisor.

- iii. If the loan agreement does not contain the provisions in (i) or (ii), disclose that fact.
- iv. Cite the section and name of the document containing these terms. Put this information in parentheses at the end of the description of the term.
- B. THE FRANCHISOR'S PRACTICE OR ITS INTENT TO SELL, ASSIGN, OR DISCOUNT TO A THIRD PARTY ALL OR PART OF THE FINANCING ARRANGEMENT.

**Item 10B Instructions:**

- i. Practice includes past or present practice and future intent to sell or assign franchisee financing arrangements.
- ii. Disclose the assignment terms including whether the franchisor will remain primarily obligated to provide the financed goods or services.
- iii. If the franchisor may sell or assign its rights under the financing agreement, disclose that the franchisee may lose all its defenses against the lender as a result of the sale or assignment.
- iv. Cite the section and name of the document containing these terms. Put this information in parentheses at the end of the description of the term.
- v. If no disclosure is required by Instruction 10B, disclose that fact.
- C. PAYMENTS TO THE FRANCHISOR OR AN AFFILIATE(S) FOR THE PLACEMENT OF FINANCING WITH THE LENDER.

**Item 10C Instructions:**

- i. Describe the payments.
- ii. If no disclosure is required by Instruction 10C(i) for a financing arrangement, disclose that fact.
- iii. Identify the source of the payment and the relationship of the source to the franchisor or its affiliates.
- iv. Disclose the amount or the method of determining the payment.
- v. Cite the section and name of the document containing these arrangements. Put this information in parentheses at the end of the description of the term.

**Sample Answer 10-1**

Belmont does not offer direct or indirect financing. Belmont does not guarantee your note, lease or obligation.

**Sample Answer 10-2**

See Table on following page.

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## SUMMARY OF FINANCING OFFERED

ITEM FINANCED (SOURCE)	AMOUNT FINANCED	DOWN PAYMENT	TERM (YRS)	APR %	MONTHLY PAYMENT	PREPAY PENALTY	SECURITY REQUIRED	LIABILITY UPON DEFAULT	LOSS OF LEGAL RIGHT ON DEFAULT
INITIAL FEE (NOTE 1) (BELMONT)	\$10,000		10	18	\$	NONE	PERSONAL GUARANTEE	LOSS OF FRANCHISE UNPAID LOAN	WAIVE NOTICE CONFESS JUDGMENT
AND/CONST RUCT									
LEASED SPACE (NOTE 2) (BELMONT)		\$2,000 (SECUR. DEP.)	7-10	N/A	\$	NONE	PERSONAL GUARANTEE	LOSS OF FRANCHISE BACK RENT 2 MOS. FRANCHISE RIGHTS ATTY'S FEES	NONE
EQUIPMENT LEASE (NOTE 3) (USA CREDIT CORP.)	\$5,000	NONE	5	15	\$	NONE	EQUIPMENT PERSONAL GUARANTEE	COST OF REMOVAL	LOSE ALL DEFENSES
EQUIP PURCH (NOTE 4) (BELMONT)	\$3,750	\$1,250 (25%)	2-7	15	\$	\$500	EQUIPMENT PERSONAL GUARANTEE	LOSS OF FRANCHISE ATTY'S FEES	NONE
OPENING INVENT.	NONE								
OTHER FINANCING	NONE								

NOTE 1 - If you meet Belmont's credit standards, Belmont will finance the \$10,000 initial franchisee fee over a 10-year period at an APR of 18%, using the standard form note in Exhibit A. The only security Belmont requires is a personal guarantee of the note by you and your spouse or by all the shareholders of your corporation. (Loan Agreement Section \_\_\_\_). The note can be prepaid without penalty at any time during its 10-year term. (Loan Agreement Section \_\_\_\_). If you do not pay on time, Belmont can call the loan and demand immediate payment of the full outstanding balance and obtain court costs and attorney's fees if a collection action is necessary. (Loan Agreement Section \_\_\_\_). Belmont also has the right to terminate your franchise if you do not make your payments on time more than three times during the note term. (Loan Agreement Section \_\_\_\_). You waive your rights to notice of a collection action and to assert any defenses to collection against Belmont. (Loan Agreement Section \_\_\_\_). Belmont discounts these notes to a third party who may be immune under the law to any defenses to payment you may have against Belmont. (Loan Agreement Section \_\_\_\_).

NOTE 2 - In most cases Belmont will sublease the franchised premises to you but will guarantee your lease with a third party if you have acceptable credit and that is the only way to obtain an exceptional location. (Lease Section \_\_\_\_). The precise terms of Belmont's standard lease in Exhibit B will vary depending on the size and location of the premises, but the chart reflects a typical range of payments for Belmont's standard 6-day franchise outlet, including payment of one month's rent as a security deposit. (Lease Section \_\_\_\_). The only other security Belmont requires is a personal guarantee of the lease by you and your spouse or by all the shareholders of your corporation. (Lease Section \_\_\_\_). The lease can be prepaid without penalty at any time during its term. (Lease Section \_\_\_\_). If you do not make a rent payment on time, Belmont has the right to collect the unpaid rent plus an additional two months rent, as liquidated damages. (Lease Section \_\_\_\_). Belmont can also obtain court costs and attorney's fees if a collection action is necessary. (Lease Section \_\_\_\_). If you are late with your rent more than three times during the lease term, Belmont has the right to terminate the lease, take over the premises, and terminate your franchise. If Belmont guarantees your lease, Belmont will require you to sign the guarantee agreement in Exhibit F (Lease Section \_\_\_\_). This gives Belmont the same legal rights as the sublease but requires you to give Belmont the right to approve your lease and pay the rent for you if you fail to pay on time. (Lease Section \_\_\_\_).

**NOTE 3 -** If you want to lease the pipe bending machine and other equipment you need, Belmont has arranged an equipment lease (see Exhibit C) from USA Credit Corporation of Las Vegas, Nevada. If you choose this option, you will pay \$100 a month for 60 months (5 years) at an APR of 15% based on a cash price of \$5,000, with no money down. (Equipment Lease Section \_\_\_\_). At the end of the lease term, you may purchase the equipment with a one-time payment of \$2,500. (Equipment Lease Section \_\_\_\_). USA Credit requires a personal guarantee from you and your spouse or from all the shareholders of your corporation and retains a security interest in the equipment. (Equipment Lease Section \_\_\_\_). The equipment lease can be prepaid at any time, but the interest you might otherwise save will be reduced by application of the Rule of 78's for computing finance charges. (Equipment Lease Section \_\_\_\_). If you do not make a payment on time, USA Credit can demand payment of all past due payments, remove the equipment, and charge you \$1,000 as liquidated damages. (Equipment Lease Section \_\_\_\_). USA Credit can also recover its costs of collection, including court costs and attorney's fees. (Equipment Lease Section \_\_\_\_). While Belmont does not know USA Credit's policies, USA Credit may discount the lease to a third party who may be immune under the law to claims or defenses you may have against USA Credit, the equipment manufacturer or Belmont. Belmont receives a referral fee of \$500 from USA Credit for every franchisee who leases equipment from it.

**NOTE 4 -** If you prefer, Belmont will sell you the pipe bending machine and other necessary equipment on time (Equipment Purchase Agreement Section \_\_\_\_). Belmont requires a 25% down payment of \$1,250. (Equipment Purchase Agreement Section \_\_\_\_). Belmont will finance the remainder over a 2-7 year period at your option at an APR of 15%. (Equipment Purchase Agreement Section \_\_\_\_). Payments range from \$228.11 a month over 7 years to \$821.58 a month over 2 years. (Equipment Purchase Agreement Section \_\_\_\_). Belmont's standard equipment financing note in Exhibit D must be personally guaranteed by you and your spouse or by all the shareholders of your corporation, and Belmont will retain a security interest in the equipment. (Equipment Purchase Agreement Section \_\_\_\_). You may purchase the equipment at any time during the lease period by paying the remainder of the principal plus a \$500 prepayment penalty. (Equipment Purchase Agreement Section \_\_\_\_). If you do not make a payment on time, Belmont can demand all overdue payments, repossess the equipment, and terminate your franchise. Belmont can also recover its costs of collection, including court costs and attorney's fees. (Equipment Purchase Agreement Section \_\_\_\_).

Except as disclosed in Note 1, Belmont does not offer financing that requires you to waive notice, confess judgment or waive a defense against Belmont or the lender, although you may lose your defenses against Belmont and others in a collection action on a note that is sold or discounted, as disclosed in Notes 2 and 3.

Except as disclosed in Note 3, Belmont does not arrange financing from other sources.

Except as disclosed in Notes 1 and 3, commercial paper from franchisees has not been and is not sold or assigned to anyone, and Belmont has no plans to do so.

Except as disclosed in Note 3, Belmont does not receive direct or indirect payments for placing financing.

Except as disclosed in Note 2, Belmont does not guarantee your obligations to third parties.

## Item 11 FRANCHISOR'S OBLIGATIONS

### DISCLOSE THE FOLLOWING:

#### A. THE OBLIGATIONS THAT THE FRANCHISOR WILL PERFORM BEFORE THE FRANCHISE BUSINESS OPENS. CITE BY SECTION THE PROVISIONS OF THE AGREEMENT REQUIRING PERFORMANCE.

##### Item 11A Instructions:

- i. Begin the disclosure by stating: "Except as listed below, (the franchisor) need not provide any assistance to you."
- ii. Pre-opening obligations include assistance to:
  - a) Locate a site for the franchised business and negotiate the purchase or lease of this site. State whether the franchisor generally owns the premises and leases it to the franchisee;
  - b) Conform the premises to local ordinances and building codes and obtain the required permits (i.e. health, sanitation, building, driveway, utility and sign permits);

- c) Construct, remodel or decorate the premises for the franchised business;
- d) Purchase or lease equipment, signs, fixtures, opening inventory and supplies. Disclose whether the franchisor provides these items directly or merely the names of approved suppliers. Disclose whether the franchisor provides written specifications for these items. Disclose whether the franchisor delivers or installs these items. (The franchisor may cross reference Item 8 for details); and
- e) Hire and train employees.
- iii. After describing the obligation, cite the section number of the agreement imposing the obligation. Put the citation in parentheses. Use this format throughout this Item.
- B. THE OBLIGATIONS TO BE MET BY THE FRANCHISOR DURING THE OPERATION OF THE FRANCHISE BUSINESS.

##### Item 11B Instructions:

- i. Include assistance in:

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- a) *Products or services to be offered by the franchisee to its customers;*
- b) *Hiring and training of employees;*
- c) *Improvements and developments in the franchised business;*
- d) *Pricing;*
- e) *Administrative, bookkeeping, accounting and inventory control procedures; and*
- f) *Operating problems encountered by the franchisee.*
- ii. *For the Franchisor's advertising program for the product or service offered by the franchisee:*
  - a) *Disclose the media in which the advertising may be disseminated (for example, print, radio, or television).*
  - b) *Disclose whether the coverage of the media is local, regional, or national in scope.*
  - c) *Disclose the source of the advertising. (for example, in-house advertising department, a national or regional advertising agency).*
  - d) *Disclose the conditions when the franchisor permits franchisees to use their own advertising material.*
  - e) *If there is an advertising council composed of franchisees that advises the franchisor on advertising policies, disclose:*
    - (1) *How members of the council are selected.*
    - (2) *Whether the council serves in an advisory capacity only or has operational or decision-making power.*
    - (3) *Whether the franchisor has the power to form, change, or dissolve the advertising council.*
  - f) *If the franchisee must participate in a local or regional advertising cooperative, disclose:*
    - (1) *How the area or membership of the cooperative is defined.*
    - (2) *How the franchisee's contribution to the cooperative is calculated (may reference Item 6).*
    - (3) *Who is responsible for administration of the cooperative (for example, franchisor, franchisees, advertising agency).*
    - (4) *Whether cooperatives must operate from written governing documents and whether the documents are available for review by the franchisee.*
    - (5) *Whether cooperatives must prepare annual or periodic financial statements and whether the statements are available for review by the franchisee.*
    - (6) *Whether the franchisor has the power to require cooperatives to be formed, changed, dissolved or merged.*
  - g) *If applicable, for each advertising fund not described in above subpart (f), disclose:*
    - (1) *Who contributes to each fund (for example, franchisees, franchisor, franchisor-owned units, outside vendors or suppliers);*
    - (2) *Whether the franchisor-owned units must contribute to the fund and, if so, whether it is on the same basis as franchisees.*
    - (3) *How much the franchisee must contribute to the advertising fund(s) (may reference Item 6) and whether other franchisees are required to contribute at a different rate (it is not necessary to disclose the specific rates).*
    - (4) *Who administers the fund(s). Whether the fund is audited and when, and whether financial statements of the fund are available for review by the franchisee.*
    - (5) *Use of the fund(s) in the most recently concluded fiscal year, the percentages spent on production, media placement, administrative expenses, and other (with a description of what constitutes "other"). Totals should equal 100%.*
    - (6) *Whether the franchisor or an affiliate receives payment for providing goods or services to an advertising fund.*
  - h) *State whether the franchisor must spend any amount on advertising in the area or territory where the franchisee is located.*
  - i) *If all advertising fees are not spent in the fiscal year in which they accrue, explain how the franchisor uses the remaining amounts. Indicate whether franchisees will receive a periodic accounting of how advertising fees are spent.*
  - j) *Disclose the percentage of advertising funds, if any, used for advertising that is principally a solicitation for the sale of franchises.*
  - k) *Cross reference Items 6, 8 and 9.*
- iii. *If the franchisor requires that franchisees buy or use electronic cash register or computer systems, provide a general description of the systems in non-technical language:*
  - a) *Identify each hardware component and software program by brand, type and principal functions.*
    - 1) *If the hardware component or software program is the proprietary property of the franchisor, an affiliate or a third party, state whether the franchisor, an affiliate or a third party has the contractual right or obligation to provide ongoing maintenance, repairs, upgrades or updates. Disclose the current annual cost of any optional or required maintenance and support contracts, upgrades and updates.*

2) If the hardware component or software program is the proprietary property of a third party, and no compatible equivalent component or program has been approved by the franchisor for use with the system to perform the same functions, identify the third party by name, business address and telephone number, and state the length of time the component or program has been in continuous use by the franchisor and its franchisees.

3) If the hardware component or software program is not proprietary, identify compatible equivalent components or programs that perform the same functions and indicate whether they have been approved by the franchisor.

b) State whether the franchisee has any contractual obligation to upgrade or update any hardware component or software program during the term of the franchise, and if so, whether there are any contractual limitations on the frequency and cost of the obligation.

c) For each electronic cash register system or software program, describe how it will be used in the franchisee's business, and the types of business information or data that will be collected and generated. State whether the franchisor will have independent access to the information and data, and if so, whether there are any contractual limitations on the franchisor's right to access the information and data.

iv. After describing the obligation, cite the section number of the agreement imposing the obligation. Put the citation in parentheses.

v. Disclose if the franchisor is not obligated to provide or to assist the franchisee to obtain the above items or services.

vi. Do not repeat, but do cross reference disclosure made in Item 6.

vii. Disclose the table of contents of the operating manual(s) provided to the franchisee as of the franchisor's last fiscal year end or a more recent date. State the number of pages devoted to each subject and the total number of pages in the manual as of this date. Alternatively, this disclosure may be omitted if the prospective franchisee views the manual before purchase of the franchise.

C. THE METHODS USED BY THE FRANCHISOR TO SELECT THE LOCATION OF THE FRANCHISEE'S BUSINESS.

## Item 11C Instructions:

i. Disclose whether the franchisor selects the site or approves an area within which the franchisee selects a site. Disclose how and whether the franchisor must approve a franchisee selected site.

ii. Disclose the factors which the franchisor considers in selecting or approving sites (for example general location

and neighborhood, traffic patterns, parking, size, physical characteristics of existing buildings and lease terms).

iii. Disclose the time limit for the franchisor to locate or to approve or disapprove the site. Disclose the consequences if the franchisor and franchisee cannot agree on a site.

iv. Disclosures made in response to Item 11A need not be repeated or cross-referenced in the response to Item 11C.

D. THE TYPICAL LENGTH OF TIME BETWEEN THE SIGNING OF THE FRANCHISE AGREEMENT OR THE FIRST PAYMENT OF CONSIDERATION FOR THE FRANCHISE AND THE OPENING OF THE FRANCHISEE'S BUSINESS.

## Item 11 D Instructions:

i. Disclosure may be a range of times if the range is specific.

ii. Describe the factors which may affect the time period such as ability to obtain a lease, financing or building permits, zoning and local ordinances, weather conditions, shortages, or delayed installation of equipment, fixtures and signs.

E. THE TRAINING PROGRAM OF THE FRANCHISOR AS OF THE FRANCHISOR'S LAST FISCAL YEAR END OR A MORE RECENT DATE INCLUDING:

(1) THE LOCATION, DURATION AND GENERAL OUTLINE OF THE TRAINING PROGRAM;

(2) HOW OFTEN THE TRAINING PROGRAM WILL BE CONDUCTED;

(3) THE EXPERIENCE THAT THE INSTRUCTORS HAVE WITH THE FRANCHISOR;

(4) CHARGES TO BE MADE TO THE FRANCHISEE AND WHO MUST PAY TRAVEL AND LIVING EXPENSES OF THE ENROLLEES IN THE TRAINING PROGRAM;

(5) IF THE TRAINING PROGRAM IS NOT MANDATORY, THE PERCENTAGE OF NEW FRANCHISEES THAT ENROLLED IN THE TRAINING PROGRAM DURING THE PRECEDING 12 MONTHS; AND

(6) WHETHER ANY ADDITIONAL TRAINING PROGRAMS AND/OR REFRESHER COURSES ARE REQUIRED.

## Item 11 F Instructions:

i. Use a table to state the subjects taught and the number of hours of classroom and "on the job training" devoted to each subject in the franchisor's training program. Use footnotes to explain.

ii. For each subject disclose the training location and how often training classes are held.



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- iii. Describe the location or facility where the training is held (for example, company, home, office, company owned store.)
- iv. State how long after the signing of the agreement or before the opening date of the business the franchisee must complete the required training.
- v. Describe the nature of instructional material. Disclose the minimum experience of the instructors. Disclose only experience that is relevant to the subject taught and the franchisor's operations.
- vi. State who may and who is required to attend the training. State whether the franchisee or other persons must complete the program to the franchisor's satisfaction.
- vii. Charges for training or training materials should be disclosed in Item 5 if the obligation to pay arises before the franchise location opens.
- viii. Disclose who pays the travel and living expenses of the persons receiving the training.

SUBJECT	TIME BEGUN	INSTRUCTIONAL MATERIAL	HOURS OF CLASSROOM TRAINING	HOURS OF ON THE JOB TRAINING	INSTRUCTOR
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Belmont does not charge for this training or service, but you must pay the travel and living expenses for you and your employees. All training occurs at Belmont's Jackson, Minnesota headquarters.

During the operation of the franchised business, Belmont will:

- 1) Develop new products and methods and provide you with information about developments. (Franchise Agreement - paragraph .)
- 2) Loan you a copy of our operations manual which contains mandatory and suggested specifications, standards and procedures. This manual is confidential and remains our property. Belmont will modify this manual, but the modification will not alter your status and rights under the Franchise Agreement. (Franchise Agreement - paragraph .) The table of contents is as follows:

Each week for the first 90 days after you open your shop, Belmont will telephone to discuss your operational problems.

Belmont will hold annual conferences to discuss sales techniques, personnel training, bookkeeping, accounting, inventory control, performance standards, advertising programs and merchandising procedures. There is no conference fee, but you must pay all your travel and living expenses. These elective conferences are held at our Jackson, Minnesota headquarters or at a location chosen by a majority vote of all franchisees.

Belmont provides advertising materials and services to you through a national advertising fund (the "National Fund"). Materials provided by the National Fund to all franchisees include video and audio tapes, mats, posters, banners and miscellaneous point-of-sale items. You will receive one sample of each at no charge. If you want additional copies you must pay duplication costs.

You may develop advertising materials for your own use, at your own cost. Belmont must approve the advertising materials in advance and in writing.

Belmont occasionally provides for placement of advertising on behalf of the entire Belmont system, including franchisees. However, most placement is done on a local basis, typically by local advertising agencies hired by individual franchisees or advertising cooperatives. Belmont reserves the right to use advertising fees from the Belmont system to place advertising in national media (including broadcast, print or other media) in the future. In the past Belmont has used an outside advertising agency to create and place advertising. Neither Belmont nor its affiliate receives payment from the National Fund. Advertising funds are used to promote the product sold by the franchisee and are not used to sell additional franchises.

The National Fund is a nonprofit corporation which collects advertising fees from all franchisees. Each franchisor owned store of Belmont contributes to the National Fund on the same basis as franchisees. All payments to the National Fund must

## Sample Answer 11

Except as disclosed below, Belmont need not provide any assistance to you.

Before you open your business, Belmont will:

- 1) Designate your exclusive territory (Franchise Agreement - paragraph 2).
- 2) Assist you in selecting a business site. Your site must be at least square feet in area, have parking spaces, and an average of cars per hour driving by. We must approve or disapprove your site within 20 days after we receive notice of the location.
- 3) Within 30 days of your signing the Franchise Agreement, assist you to find and negotiate the lease or purchase of a location for your muffler shop (Franchise Agreement - paragraph ). Your store location will be purchased or leased by you from independent third parties.
- 4) Within 60 days of your signing the Franchise Agreement, provide written specifications for store construction or remodeling and for all required and replacement equipment, inventory and supplies (Franchise Agreement - paragraph ). See Item 8 of this offering circular.
- 5) Within 60 days of your signing the Franchise Agreement, provide blueprints for your store construction or remodeling and obtain health, sanitation, building, utility and sign permits for your premises. You pay for the construction or remodeling. (Franchise Agreement - paragraph ).
- 6) Within 60 days of your signing the Franchise Agreement, train you and one other person as follows:

be spent on advertising, promotion and marketing of goods and services provided by Belmont Muffler Shops. You must contribute the amounts described in Item 6, under the heading "Advertising Fees and Expenses."

The National Fund is administered by Belmont's accounting and marketing personnel under the direction of the Advertising Council. An annual audited financial statement of the National Fund is available to any franchisee upon request. During the last fiscal year of the National Fund (ending on December 31, 1990), the National Fund spent 39% of its income on the production of advertisements and other promotional materials, 36% for media placement, 18% for general and administrative expenses, and 7% for other expenses (the purchase of glassware given to customers of Belmont shops as part of a promotional campaign).

The Advertising Council acts as the board of directors of the National Fund. The Advertising Council has 8 members: the President, Treasurer, Vice President-Marketing, and Vice President-Operations of Belmont; and 4 franchisee representatives who are elected by the governing board of the Belmont Franchisee Association.

Once your shop opens, you must participate in the local advertising cooperative established in the Area of Dominant Influence (ADI) where your store is located. The amount of your contribution to the local advertising cooperative is described in Item 6 under the heading "Advertising Fees and Expenses."

Each local advertising cooperative must adopt written governing documents. A copy of the governing documents of the cooperative (if one has been established) for your ADI is available upon request. Each cooperative may determine its own voting procedures; however, each company-owned Belmont Shop will be entitled to one vote in any local advertising cooperative. The members and their elected officers are responsible for administration of the cooperative. Advertising cooperatives must prepare quarterly and annual financial statements. The annual financial statement must be prepared by an independent CPA and be made available to all franchisees in that advertising cooperative.

You select your business site within your exclusive area subject to our approval. Belmont assists in site selection by telling you the number of new car registrations, population density, traffic patterns and proximity of the proposed site to other Belmont Muffler Shops.

Franchisees typically open their shops 4 to 7 months after they sign a franchise agreement. The factors that affect this time are the ability to obtain a lease, financing or building permits, zoning and local ordinances, weather conditions, shortages, and delayed installation of equipment fixtures and signs.

## Item 12 TERRITORY

DESCRIBE ANY EXCLUSIVE TERRITORY GRANTED THE FRANCHISEE. CONCERNING THE FRANCHISEE'S LOCATION (WITH OR WITHOUT EXCLUSIVE TERRITORY), DISCLOSE WHETHER:

- A. THE FRANCHISOR HAS ESTABLISHED OR MAY ESTABLISH ANOTHER FRANCHISEE WHO MAY ALSO USE THE FRANCHISOR'S TRADEMARK.
- B. THE FRANCHISOR HAS ESTABLISHED OR MAY ESTABLISH A COMPANY-OWNED OUTLET OR OTHER CHANNELS OF DISTRIBUTION USING THE FRANCHISOR'S TRADEMARK.

### Item 12 Instructions:

- i. As used in Item 12, trademark includes names, trademarks, logos and other commercial symbols.
- ii. If appropriate, describe the minimum area granted to the franchisee. The franchisor may use an area encompassed within a specific radius, a distance sufficient to encompass a specified population or another specific designation.
- iii. State whether the franchise is granted for a specific location or a location to be approved by the franchisor.
- iv. If appropriate, state the conditions under which the franchisor will approve the relocation of the franchised business or the establishment of additional franchised outlets.
- v. Describe restrictions on the franchisor regarding operating company owned stores or on granting franchised outlets for a similar or competitive business within the defined area.
- vi. Describe restrictions on franchisees from soliciting or accepting orders outside of their defined territories.
- vii. Describe restrictions on the franchisor from soliciting or accepting orders inside the franchisee's defined territory. State compensation that the franchisor must pay for soliciting or accepting orders inside the franchisee's defined territories.
- viii. Describe franchisee options, rights of first refusal or similar rights to acquire additional franchises within the territory or contiguous territories.
- ix. If the franchisor does not grant territorial rights, use Sample Answer 12-1.
- C. THE FRANCHISOR OR ITS AFFILIATE HAS ESTABLISHED OR MAY ESTABLISH OTHER FRANCHISES OR COMPANY-OWNED OUTLETS OR ANOTHER CHANNEL OF DISTRIBUTION SELLING OR LEASING SIMILAR PRODUCTS OR SERVICES UNDER A DIFFERENT TRADEMARK.

### Item 12C Instructions

- i. "Similar products and services" includes competing, interchangeable or substitute products but not products or services which are not part of the same product or service market.
- ii. If the franchisor or an affiliate operates, franchises or has present plans to operate or franchise a business under a different trademark and that business sells goods or services similar to those to be offered by the franchisee, describe:

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- a) The similar goods and services;
- b) The trade names and trademarks;
- c) Whether outlets will be franchisor owned or operated;
- d) Whether the franchisor or its franchisees who use the different trademark will solicit or accept orders within the franchisee's territory;
- e) A timetable for the plan;
- f) How the franchisor will resolve conflicts between the franchisor and the franchisees and between the franchisees of each system regarding territory, customers or franchisor support; and
- g) If appropriate, disclose the principal business address of the franchisor's similar operating business. If it is the same as the franchisor's principal business address disclosed in Item 1, disclose whether the franchisor maintains (or plans to maintain) physically separate offices and training facilities for the similar competing business.

**D. CONTINUATION OF THE FRANCHISEE'S TERRITORIAL EXCLUSIVITY DEPENDS ON ACHIEVEMENT OF A CERTAIN SALES VOLUME, MARKET PENETRATION OR OTHER CONTINGENCY AND UNDER WHAT CIRCUMSTANCES THE FRANCHISEE'S TERRITORY MAY BE ALTERED.**

**Item 12D Instructions:**

- i. Disclose conditions for the franchisee's keeping its territorial rights (for example, sales quotas or the opening of additional business outlets). Specify the quotas or conditions and the franchisor's rights if the franchisee fails to meet the requirements.
- ii. Disclose other circumstances that permit the franchisor to modify the franchisee's territorial rights (for example, a population increase in the territory giving the franchisor the right to grant an additional franchise within the area.) Disclose the effect on the franchisee's rights.

**Sample Answer 12-1**

You will not receive an exclusive territory. Belmont may establish other franchised or company owned outlets that may compete with your location.

**Sample Answer 12-2**

You will receive an exclusive territory with a minimum population of 50,000 people. You will operate from one location and must receive Belmont's permission before relocating. Belmont will not operate stores or grant franchises for a similar or competitive business within your area. Except when advertising cooperatively with appropriate franchisees, neither Belmont nor you can advertise or solicit orders within another franchisee's territory. You and Belmont can accept orders from outside your territory without special payment.

You do not receive the right to acquire additional franchises within your area.

There is no minimum sales quota. You maintain rights to your area even though the population increases.

**Item 13  
TRADEMARKS**

**DISCLOSE THE PRINCIPAL TRADEMARKS TO BE LICENSED TO THE FRANCHISEE INCLUDING:**

**Item 13 Instructions:**

- i. As used in Item 13, "Principal trademarks" means the primary trademarks, service marks, names, logos and symbols to be used by the franchisee to identify the franchised business. It does not include every trademark owned by the franchisor.
  - ii. The franchisor may limit Item 13 disclosure to information that is relevant to the state where the franchised business will be located. The franchisor may include all states to eliminate the need for multiple disclosure in Item 13 but must amend its offering circular to reflect any material change in the list.
- A. WHETHER THE PRINCIPAL TRADEMARKS ARE REGISTERED WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE. FOR EACH REGISTRATION STATE THE REGISTRATION DATE AND NUMBER AND WHETHER THE REGISTRATION IS ON THE PRINCIPAL OR SUPPLEMENTAL REGISTER.**

**Item 13A Instructions:**

- i. Identify each principal trademark which the franchisee may use. The franchisor may reproduce these trademarks in this Item.
- ii. State the date and identification number of each trademark registration or registration application listed. State whether the franchisor has filed all required affidavits. State whether any registration has been renewed.
- iii. State whether the principal trademarks are registered on the principal or supplemental register of the U.S. Patent and Trademark Office, and if not, whether an "intent to use" application or an application based on actual use has been filed with the U.S. Patent and Trademark Office. If the principal trademark to be used by the franchisee is not registered on the Principal Register of the U.S. Patent and Trademark Office, state:

By not having a Principal Register federal registration for (name or description of symbol), (Name of Franchisor) does not have certain presumptive legal rights granted by a registration.

**B. DISCLOSE CURRENTLY EFFECTIVE MATERIAL DETERMINATIONS OF THE PATENT AND TRADEMARK OFFICE, TRADEMARK TRIAL AND APPEAL BOARD, THE TRADEMARK ADMINISTRATOR OF THIS STATE OR ANY COURT; PENDING INFRINGEMENT, OPPOSITION OR CANCELLATION;**

## AND PENDING MATERIAL LITIGATION INVOLVING THE PRINCIPAL TRADEMARKS.

### Item 13B Instructions:

- i. Litigation or an action is material if it could significantly affect the ownership or use of a trademark listed under Item 13. Describe how the determination affects the ownership, use or licensing. Describe any decided infringement, cancellation or opposition proceedings. Include infringement, opposition or cancellation proceedings in which the franchisor unsuccessfully sought to prevent registration of a trademark in order to protect a trademark licensed by the franchisor.
  - ii. For pending material federal or state litigation regarding the franchisor's use or ownership rights in a trademark disclose:
    - a) The forum and case number;
    - b) The nature of claims made opposing the franchisor's use or by the franchisor opposing another person's use; and
    - c) Any effective court or administrative agency ruling concerning the matter.
  - iii. Do not repeat disclosure made in response to Item 13A.
  - iv. The franchisor need not disclose historical challenges to registrations of trademarks listed in Item 13 that were resolved in the franchisor's favor.
  - v. The franchisor may include an attorney's opinion relative to the merits of litigation or of an action if the attorney issuing the opinion consents to its use. The text of the disclosure may include a summary of the opinion if the full opinion is attached and the attorney issuing the opinion consents to the use of the summary.
- C. DISCLOSE AGREEMENTS CURRENTLY IN EFFECT WHICH SIGNIFICANTLY LIMIT THE RIGHTS OF THE FRANCHISOR TO USE OR LICENSE THE USE OF TRADEMARKS LISTED IN ITEM 13 IN A MANNER MATERIAL TO THE FRANCHISE.

### Item 13C Instructions:

For each agreement disclose:

- i. The manner and extent of the limitation or grant;
  - ii. The agreement's duration;
  - iii. The parties to the agreement;
  - iv. The circumstances under which the agreement may be cancelled or modified; and
  - v. All other material terms.
- D. WHETHER THE FRANCHISOR MUST PROTECT THE FRANCHISEE'S RIGHT TO USE THE PRINCIPAL TRADEMARKS LISTED IN ITEM 13, AND MUST PROTECT THE FRANCHISEE AGAINST CLAIMS OF INFRINGEMENT OR UNFAIR COMPETITION ARISING OUT OF THE FRANCHISEE'S USE OF THEM.

### Item 13D Instructions:

- i. Disclose the franchisee's obligation to notify the franchisor of the use of or claims of rights to a trademark identical to or confusingly similar to a trademark licensed to the franchisee.
  - ii. State whether the franchise agreement requires the franchisor to take affirmative action when notified of these uses or claims. Identify who has the right to control administrative proceedings or litigation.
  - iii. State whether the franchise agreement requires the franchisor to participate in the franchisee's defense and/or indemnify the franchisee for expenses or damages if the franchisee is a party to an administrative or judicial proceeding involving a trademark licensed by the franchisor to the franchisee, or if the proceeding is resolved unfavorably to the franchisee.
  - iv. Disclose the franchisee's rights under the franchise if the franchisor requires the franchisee to modify or discontinue the use of a trademark as a result of a proceeding or settlement.
- E. WHETHER THE FRANCHISOR ACTUALLY KNOWS OF EITHER SUPERIOR PRIOR RIGHTS OR INFRINGING USES THAT COULD MATERIALLY AFFECT THE FRANCHISEE'S USE OF THE PRINCIPAL TRADEMARKS IN THIS STATE OR THE STATE IN WHICH THE FRANCHISED BUSINESS IS TO BE LOCATED.

### Item 13E Instructions:

For each use of a principal trademark that the franchisor believes constitutes an infringement that could materially affect the franchisee's use of a trademark, state:

- i. The location(s) where the infringement is occurring;
- ii. To the extent known, the length of time of the infringement; and
- iii. Action taken by the franchisor.

If the franchisor knows of a use of a trademark by another in a geographic area relevant to the franchisee which is or is likely to be based on a claim of superior prior rights to the franchisor's, state the nature of the use by the other person and the place or area where it is occurring.

### Sample Answer 13

Belmont grants you the right to operate a shop under the name Belmont Muffler Shop. You may also use our other current or future trademarks to operate your shop. By trademark Belmont means trade names, trademarks, service marks and logos used to identify your shop. Belmont registered the below trademark on the United State Patent and Trademark Office principal register:

You must follow our rules when you use these marks. You can not use a name or mark as part of a corporate name or with modifying words, designs or symbols except for those

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which Belmont licenses to you. You may not use Belmont's registered name in connection with the sale of an unauthorized product or service or in a manner not authorized in writing by Belmont.

On June 4, 1973, the United States Patent and Trademark Office rejected Belmont's application to register the mark "Super Mufflers" because the mark was found to be confusingly similar to a registered mark. Belmont's inability to register this mark on a federal level permits others to establish rights to use the mark. This use will not be in areas where our franchisees are operating, or advertising under the mark, or in the natural zone of expansion for Belmont's shops. In addition, these users must act in good faith and without actual knowledge of Belmont's prior use of the mark. However, if others establish rights to use Belmont's mark, Belmont may not be able to expand into these areas using the mark.

No agreements limit Belmont's right to use or license the use of Belmont's trademarks.

You must notify Belmont immediately when you learn about an infringement of or challenge to your use of our trademark. Belmont will take the action we think appropriate. While Belmont is not required to defend you against a claim against your use of our trademark, Belmont will reimburse you for your liability and reasonable costs in connection with defending Belmont's trademark. To receive reimbursement you must have notified Belmont immediately when you learned about the infringement or challenge.

You must modify or discontinue the use of a trademark if Belmont modifies or discontinues it. If this happens, Belmont will reimburse you for your tangible costs of compliance (for example, changing signs). You must not directly or indirectly contest our right to our trademarks, trade secrets or business techniques that are part of our business.

Belmont does not know of any infringing uses that could materially affect your use of Belmont's trademark.

or

John E. Jones, 4231 Main Street, Reno, Nevada is currently doing business as Belmont Muffler Shoppe at 4231 Main Street, Reno, Nevada. We believe that this is an infringing use of our federally registered trademark "Belmont Muffler Shop," and we have filed an action to enjoin Mr. Jones and to recover damages. If the court holds that Mr. Jones' use is not infringing, Belmont may not be able to use Belmont's trademark in Mr. Jones' immediate area. (Belmont Muffler Shop v. Belmont Muffler Shoppe-cite)

## Item 14

### PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION

IF THE FRANCHISOR OWNS RIGHTS IN PATENTS OR COPYRIGHTS THAT ARE MATERIAL TO THE FRANCHISE, DESCRIBE THESE PATENTS AND COPYRIGHTS AND THEIR RELATIONSHIP TO THE FRANCHISE. INCLUDE THEIR DURATION AND WHETHER THE FRANCHISOR CAN AND INTENDS TO RENEW THE COPYRIGHTS. TO THE EXTENT RELEVANT, DISCLOSE THE INFORMATION REQUIRED BY ITEM 13 CONCERNING THESE PATENTS

AND COPYRIGHTS. IF THE FRANCHISOR CLAIMS PROPRIETARY RIGHTS IN CONFIDENTIAL INFORMATION OR TRADE SECRETS, DISCLOSE THEIR GENERAL SUBJECT MATTER AND THE TERMS AND CONDITIONS FOR USE BY THE FRANCHISEE.

#### Item 14 Instructions:

- i. State the patent number, issue date and title for each patent. State the serial number, filing date and title of each patent application. Describe the type of patent or patent application (for example mechanical, process, or design). State the registration number and date of each copyright.
- ii. Describe the relationship of the patent, patent application or copyright to the franchised business.
- iii. Describe any current determination of the Patent and Trademark Office, Copyright Office (Library of Congress) or court regarding the patent or copyright. Include the forum, case number and effect on the franchised business.
- iv. State the forum, case number, claims asserted, issues involved and effective determinations for any proceedings pending in the Patent and Trademark Office or the Court of Appeals for the Federal Circuit.
- v. If counsel consents, the franchisor may include a counsel's opinion or a summary of the opinion about patent or copyright issues discussed in this item.
- vi. If an agreement limits the use of the patent, patent application or copyright, state the parties to and duration of the agreement, the extent to which the franchisee may be affected by the agreement, and other material terms of the agreement.
- vii. Disclose the franchisor's obligation to protect the patent, patent application or copyright. State:
  - a) Whether franchisee must notify the franchisor of claims or infringements or if the action is discretionary.
  - b) Whether the franchisor must take affirmative action when notified of infringement or if the action is discretionary.
  - c) Who has the right to control litigation.
  - d) Whether the franchisor must participate in the defense of a franchisee or indemnify the franchisee for expenses or damages in a proceeding involving a patent, patent application or copyright licensed to the franchisee.
  - e) Requirements that the franchisee modify or discontinue use of the subject matter covered by the patent or copyright.
  - f) Franchisee's rights if the franchisor requires the franchisee to modify or discontinue the use of the subject matter covered by the patent or copyright.

viii. If the franchisor actually knows of an infringement that could materially affect the franchisee, state:

- a) The nature of the infringement.
- b) The location(s) where the infringement is occurring.
- c) The length of time of the infringement.
- d) Action taken or anticipated by the franchisor.

ix. State whether the franchisor intends to renew the copyright when the registration expires.

x. Discuss in general terms other proprietary information communicated to the franchisee (for example, whether there is a formula or recipe considered to be a trade secret.)

xi. Use Sample Answer 14-1 if no patents or copyrights are material to the franchise.

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### Sample Answer 14-1

No patents or copyrights are material to the franchise.

### Sample Answer 14-2

You do not receive the right to use an item covered by a patent or copyright, but you can use the proprietary information in Belmont's Operations Manual. The Operations Manual is described in Item 11. Although Belmont has not filed an application for a copyright registration for the Operations Manual, it claims a copyright and the information is proprietary. Item 11 describes limitations on the use of this manual by you and your employees. You must also promptly tell us when you learn about unauthorized use of this proprietary information. Belmont is not obligated to take any action but will respond to this information as we think appropriate. Belmont will indemnify you for losses brought by a third party concerning your use of this information.

### Sample Answer 14-3

U.S. Patent 3999442 was issued on December 14, 1980. It describes a process for exhaust system installation. The process describes the steps in making a straight length of exhaust pipe, bending this pipe, coating the inside and outside of this pipe with our Pipe Protector and installing the exhaust pipe on a motor vehicle. You will use equipment utilizing this process.

On December 15, 1970, Belmont obtained a copyright registration for its Operations Manual under Registration A41139. Amendments to the manual were registered on January 7, 1983 (Reg. A521,371) and June 6, 1974 (Reg. A 541,333). Belmont intends to renew these copyrights. Item 11 of this Offering Circular describes the Operations Manual and the manner in which you are permitted to use it.

Belmont's right to use or license these patents and copyrighted items is not materially limited by any agreement or known infringing use.

You must tell us immediately if you learn about an infringement or challenge to our use of these patents or copyrights. Belmont will take the action that Belmont thinks appropriate. You must also agree not to contest Belmont's interest in these or our other trade secrets.

If Belmont decides to add, modify or discontinue the use of an item or process covered by a patent or copyright, you must also do so. Belmont's sole obligation is to reimburse you for the tangible cost of complying with this obligation.

Although Belmont is not obligated to defend your use of these items or processes, Belmont will reimburse you for damages and reasonable costs incurred in litigation about them.

### Item 15

#### OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS

DISCLOSE THE FRANCHISEE'S OBLIGATION TO PARTICIPATE PERSONALLY IN THE DIRECT OPERATION OF THE FRANCHISE BUSINESS AND WHETHER THE FRANCHISOR RECOMMENDS PARTICIPATION.

#### Item 15 Instructions:

- i. Include obligations arising from written agreement (including personal guaranty, confidentiality agreement or noncompetition agreement) or from the franchisor's practice.
- ii. If personal "on premises" supervision is not required:
  - a) If the franchisee is an individual, state whether the franchisor recommends "on-premises" supervision by the franchisee;
  - b) State limitations on whom the franchisee can hire as an on-premises supervisor;
  - c) Whether this "on-premises" supervisor must successfully complete the franchisor's training program; and
  - d) If the franchisee is a business entity, state the amount of equity interest that the "on premises" supervisor must have in the franchise.
- iii. Disclose the restrictions which the franchisee must place on its manager (for example, maintain trade secrets, non-competition).
- iv. The franchisor may reference Items 14 and 17 in its answer.

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### Sample Answer 15-1

If you are an individual, you must directly supervise the franchised business on its premises. If you are a corporation the direct, on-site supervision must be done by a person who owns at least 1/3 of the corporate equity.

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## Sample Answer 15-2

Belmont does not require that you personally supervise the franchised business. The business must be directly supervised "on-premises" by a manager who has successfully completed Belmont's training program. The on-premises manager can not have an interest or business relationship with any of Belmont's business competitors. The manager need not have an ownership interest in a corporate or partnership franchisee. The manager must sign a written agreement to maintain confidentiality of the trade secrets described in Item 14 and to conform with the covenants not to compete described in Item 17.

Each individual who owns a 5% or greater interest in the franchisee entity must sign an agreement (Exhibit \_\_\_\_ ) assuming and agreeing to discharge all obligations of the "Franchisee" under the Franchise Agreement.

### Item 16

#### RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL

DISCLOSE RESTRICTIONS OR CONDITIONS IMPOSED BY THE FRANCHISOR ON THE GOODS OR SERVICES THAT THE FRANCHISEE MAY SELL OR THAT LIMIT THE CUSTOMERS TO WHOM THE FRANCHISEE MAY SELL GOODS OR SERVICES.

#### Item 16 Instructions:

- i. Describe the franchisee's obligation to sell only goods and services approved by the franchisor.
- ii. Disclose any franchisee obligation to sell all goods and services authorized by the franchisor. Disclose whether the franchisor has the right to change the types of authorized goods and services and whether there are limits on the franchisor's right to make changes.
- iii. If the franchisee is restricted regarding customers, disclose the restrictions.
- iv. The applicant may cross reference disclosures made in Items 8, 9, and 12.
- v. Use Sample Answer 16-1 for a negative response.

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## Sample Answer 16-1

Belmont does not restrict the type of goods or services that you may offer.

## Sample Answer 16-2

Belmont requires you to offer and sell only those goods and services that Belmont has approved (see Item 9).

You must offer all goods and services that Belmont designates as required for all franchisees. These required services are muffler inspection, repair and replacement. Parts, supplies, and equipment used in your Belmont Muffler business must be approved by Belmont (see Item 8).

Belmont has the right to add additional authorized services that the franchisee is required to offer. There are no limits on Belmont's right to do so except that the investment required of a franchisee (for equipment, supplies and initial inventory) will not exceed \$5,000 per year.

Belmont also designates some services as optional for qualified franchisees. Current optional services are brake inspection, repair and replacement, tire rotation, wheel balancing, and alignment and rustproofing. To offer optional goods or services, you must be in substantial compliance with all material obligations under your Franchise Agreement. In addition, Belmont may require you to comply with other requirements (such as training, marketing, insurance) before Belmont will allow you to offer certain optional services.

As long as you meet your annual agreed sales quotas (see Item 12), Belmont will not restrict you from soliciting any customers, no matter who they are or where they are located. If you do not meet your annual sales quota, Belmont may deny you the right to receive any further fleet business referrals from Belmont and may either keep the fleet business referrals for itself or give them to another franchisee. Failure to meet your annual sales quota is a default under your Franchise Agreement and grounds for termination of your franchise (see Item 17).

### Item 17

#### RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION

SUMMARIZE THE PROVISIONS OF THE FRANCHISE AND OTHER AGREEMENTS DEALING WITH TERMINATION, RENEWAL, TRANSFER, DISPUTE RESOLUTION AND OTHER IMPORTANT ASPECTS OF THE FRANCHISE RELATIONSHIP.

#### Item 17 Instructions:

- i. Begin Item 17 disclosure with the following statement:

This table lists certain important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this offering circular.
- ii. Respond in tabular form. Refer to the section of the agreement which covers each subject.
- iii. Use a separate table for any other significant franchise-related agreements. If a provision in any other agreement affects the provisions of the franchise or franchise-related agreements disclosed in this Item (for example, the term of the franchise will be equal to the term of the lease), disclose that provision in the applicable category in the table.
- iv. The table should contain a "summary" column to summarize briefly the disclosed provision. The summary is intended to provide a concise overview of the provision in no more than a few words or a sentence. Do not specify in detail all matters covered by a provision.
- v. The table should respond to each category listed below. Do not change the names of the categories. List all contractual provisions relevant to each category in the

table. If the response to any category is that the agreement does not contain the relevant provision, the table should so state. If the agreement is silent concerning a category but the franchisor unilaterally offers to provide certain benefits or protections to franchisees as a matter of policy, a footnote should describe this policy and state whether the policy is subject to change. The categories are:

- a. Length of the term of the franchise
- b. Renewal or extension of the term
- c. Requirements for franchisee to renew or extend
- d. Termination by franchisee
- e. Termination by franchisor without cause
- f. Termination by franchisor with "cause"
- g. "Cause" defined - curable defaults
- h. "Cause" defined - defaults which cannot be cured
- i. Franchisee's obligations on termination/non-renewal
- j. Assignment of contract by franchisor
- k. "Transfer" by franchisee - defined
- l. Franchisor approval of transfer by franchisee
- m. Conditions for franchisor approval of transfer
- n. Franchisor's right of first refusal to acquire franchisee's business
- o. Franchisor's option to purchase franchisee's business
- p. Death or disability of franchisee
- q. Non-competition covenants during the term of the franchise
- r. Non-competition covenants after the franchise is terminated or expires
- s. Modification of the agreement
- t. Integration/merger clause
- u. Dispute resolution by arbitration or mediation
- v. Choice of forum
- w. Choice of law

## Sample Answer 17

This table lists important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this offering circular.

Provision	Section in Franchise Agreement	Summary
a. Term of the franchise	Section 1, (also Section 1 of Lease, Exhibit F)	Term is equal to lease term - 10 years
b. Renewal or extension of the term	Section 20	If you are in good standing you can add additional term equal to renewal term of lease (10 years max.)
c. Requirements for you to renew or extend	Section 20	Sign new agreement, pay fee, remodel and sign release
d. Termination by you	None	
e. Termination by Belmont without cause	None	
f. Termination by Belmont with cause	Section 21	Belmont can terminate only if franchisee defaults
g. "Cause" defined - defaults which can be cured	Section 21B	You have 30 days to cure: non-payment of fees, sanitation problems, non submission of reports and any other default not listed in Section 21A.
h. "Cause" defined - defaults which cannot be cured	Section 22	Non-curable defaults: conviction of felony, repeated defaults even if cured, abandonment, trademark misuse and unapproved transfers
i. Your obligations on termination/nonrenewal	Section 22	Obligations include complete deidentification and payment of amounts due (also see r, below)
j. Assignment of contract by Belmont	Section 18	No restriction on Belmont's right to assign
k. "Transfer" by you - definition	Section 19A	Includes transfer of contract or assets or ownership change



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# State Corporation Commission

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<i>l. Belmont's approval of transfer by franchisee</i>	Section 19B	<i>Belmont has the right to approve all transfers but will not unreasonably withhold approval</i>
<i>m. Conditions for Belmont approval of transfer</i>	Section 19C	<i>New franchisee qualifies, transfer fee paid, purchase agreement approved, training arranged, release signed by you and current agreement signed by new franchisee (also see r, below)</i>
<i>n. Belmont's right of first refusal to acquire your business</i>	Section 19F	<i>Belmont can match any offer for the franchisee's business</i>
<i>o. Belmont's option to purchase your business</i>	None, but see policy described in Note 1	
<i>p. Your death or disability</i>	Section 19D	<i>Franchise must be assigned by estate to approved buyer in 6 months</i>
<i>q. Non-competition covenants during the term of the franchise</i>	Section 11	<i>No involvement in competing business anywhere in U.S.</i>
<i>r. Non-competition covenants after the franchise is terminated or expires</i>	Sections 19C and 22C	<i>No competing business for 2 years within 20 miles of another Belmont franchise (including after assignment)</i>
<i>s. Modification of the agreement</i>	Section 8A	<i>No modifications generally but Operating Manual subject to change</i>
<i>t. Integration/merger clause</i>	Section 29	<i>Only the terms of the franchise agreement are binding (subject to state law). Any other promises may not be enforceable</i>
<i>u. Dispute resolution by arbitration or mediation</i>	Section 24	<i>Except for certain claims, all disputes must be arbitrated in _____, _____</i>
<i>v. Choice of forum</i>	Section 27	<i>Litigation must be in _____</i>
<i>w. Choice of law</i>	Section 28	<i>_____ law applies</i>

*Note 1 - Franchisor is not obligated by the Agreement to do so, but, if the franchise is terminated, franchisor's policy is to buy back inventory at fair market value. This policy is subject to change at any time.*

*These states have statutes which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise: ARKANSAS [Stat. Section 70-807], CALIFORNIA [Bus. & Prof. Code Sections 20000-20043], CONNECTICUT [Gen. Stat. Section 42-133e et seq.], DELAWARE [Code, tit.], HAWAII [Rev. Stat. Section 482E-1], ILLINOIS [Rev. Stat. Chapter 121 1/2 par 1719-1720], INDIANA [Stat. Section 23-2-2.7], IOWA [Code Sections 523H.1-523H.17], MICHIGAN [Stat. Section 19.854(27)], MINNESOTA [stat. Section 80C.14], MISSISSIPPI [Code Section 75-24-51], MISSOURI [Stat. Section 407.400], NEBRASKA [Rev. Stat. Section 87-401], NEW JERSEY [Stat. Section 56:10-1], SOUTH DAKOTA [Codified Laws Section 37-5A-51], VIRGINIA [Code 13.1-557-574-13.1-564], WASHINGTON [Code Section 19.100.180], WISCONSIN [Stat. Section 135.03]. These and other states may have court decisions which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.*

## Item 18 PUBLIC FIGURES

### DISCLOSE THE FOLLOWING:

#### A. COMPENSATION OR OTHER BENEFIT GIVEN OR PROMISED TO A PUBLIC FIGURE ARISING FROM:

- (1) THE USE OF THE PUBLIC FIGURE IN THE FRANCHISE NAME OR SYMBOL OR
- (2) THE ENDORSEMENT OR RECOMMENDATION OF THE FRANCHISE TO PROSPECTIVE FRANCHISEES.

#### B. THE EXTENT TO WHICH THE PUBLIC FIGURE IS INVOLVED IN THE ACTUAL MANAGEMENT OR CONTROL OF THE FRANCHISOR.

#### C. THE TOTAL INVESTMENT OF THE PUBLIC FIGURE IN THE FRANCHISOR.

##### Item 18 Instructions:

- i. A "public figure" is a person whose name or physical appearance is generally known to the public in the geographic area where the franchise will be located.
- ii. Disclose the compensation paid or promised for the endorsement or use of the name of the public figure.

- iii. Describe the public figure's position and duties in the franchisor's business structure.
- iv. State the amount of the public figure's investment. Describe the extent of the amount contributed in services performed or to be performed. State the type of investment (for example, common stock, promissory note).
- v. Use sample answer 18-1 for a negative response.

## Sample Answer 18-1

Belmont does not use any public figure to promote its franchise.

## Sample Answer 18-2

Belmont has paid Ralph Doister \$50,000 for the use of his name in promoting the sale of our franchise. The right expires December 31, 1992. Belmont has produced newspaper ads, a brochure and a video which feature Mr. Doister. Mr. Doister does not manage or own an interest in Belmont.

### ITEM 19 EARNINGS CLAIMS

- A. AN EARNINGS CLAIM MADE IN CONNECTION WITH AN OFFER OF A FRANCHISE MUST BE INCLUDED IN FULL IN THE OFFERING CIRCULAR AND MUST HAVE A REASONABLE BASIS AT THE TIME IT IS MADE. IF NO EARNINGS CLAIM IS MADE, ITEM 19 OF THE OFFERING CIRCULAR MUST CONTAIN THE NEGATIVE DISCLOSURE PRESCRIBED IN THE INSTRUCTION.

#### Item 19A Instructions:

- i. Definition: "Earnings claim" means information given to a prospective franchisee by, on behalf of or at the direction of the franchisor or its agent, from which a specific level or range of actual or potential sales, costs, income or profit from franchised or non-franchised units may be easily ascertained.

A chart, table or mathematical calculation presented to demonstrate possible results based upon a combination of variables (such as multiples of price and quantity to reflect gross sales) is an earnings claim subject to this item.

An earnings claim limited solely to the actual operating results of a specific unit being offered for sale need not comply with this item if it is given only to potential purchasers of that unit and is accompanied by the name and last known address of each owner of the unit during the prior three years.

- ii. Supplemental earnings claim: If a franchisor has made an earnings claim in accordance with this Item 19, the franchisor may deliver to a prospective franchisee a supplemental earnings claim directed to a particular location or circumstance, apart from the offering circular. The supplemental earnings claim must be in writing, explain the departure from the earnings claim in the offering circular, be prepared in accordance with this item 19, and be left with the prospective franchisee.

- iii. Scope of requirement: An earnings claim is not required in connection with the offer of franchises; if made, however, its presentation must conform with this Item 19. If an earnings claim is not made, then negative disclosure 19 (below) must be used.
- iv. Claims regarding future performance: A statement or prediction of future performance that is prepared as a forecast or projection in accordance with the statement on standards for accountants' services on prospective financial information (or its successor) issued by the American Institute of Certified Public Accountants, Inc., is presumed to have a reasonable basis.
- v. Burden of proof: The burden is upon the franchisor to show that it had a reasonable basis for its earnings claim.

### [NEGATIVE DISCLOSURE 19]

#### REPRESENTATIONS REGARDING EARNINGS CAPABILITY

Belmont does not furnish or authorize its salespersons to furnish any oral or written information concerning the actual or potential sales, costs, income or profits of [a Belmont muffler shop]. Actual results vary from unit to unit and Belmont cannot estimate the results of any particular franchise.

- B. EARNINGS CLAIM SHALL INCLUDE A DESCRIPTION OF ITS FACTUAL BASIS AND THE MATERIAL ASSUMPTIONS UNDERLYING ITS PREPARATION AND PRESENTATION.

#### Item 19B Instructions:

- i. FACTUAL BASIS: The factual basis of an earnings claim includes significant matters upon which a franchisee's future results are expected to depend. This includes for example, economic or market conditions which are basic to a franchisee's operation and encompass matters affecting, among other things, franchisee's sales, the cost of goods or services sold and operating expenses.

In the absence of an adequate operating experience of its own, a franchisor may base an earnings claim upon the results of operations of a substantially similar business of a person affiliated with the franchisor or franchisees of that person; provided that disclosure is made of any material differences in the economic or market conditions known to, or reasonably ascertainable by, the franchisor.

- ii. Basic Disclosures: The earnings claim must state:
  - (a) Material assumptions, other than matters of common knowledge, underlying the claim (see Definition iii under Item 3 for the definition of "material");
  - (b) A concise summary of the basis for the claim including a statement of whether the claim is based upon actual experience of franchised units and, if so, the percentage of franchised outlets in operation for the period covered by the earnings claim that have actually attained or surpassed the stated results;

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# State Corporation Commission

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- (c) A conspicuous admonition that a new franchisee's individual financial results are likely to differ from the result stated in the earnings claim; and
- (d) A statement that substantiation of the data used in preparing the earnings claim will be made available to the prospective franchisee on reasonable request.

## Item 20 LIST OF OUTLETS

### DISCLOSE THE FOLLOWING:

- A. THE NUMBER OF FRANCHISES OF A TYPE SUBSTANTIALLY SIMILAR TO THOSE OFFERED AND THE NUMBER OF FRANCHISOR OWNED OR OPERATED OUTLETS AS OF THE CLOSE OF EACH OF THE FRANCHISOR'S LAST 3 FISCAL YEARS. SEGREGATE FRANCHISES THAT ARE OPERATIONAL FROM FRANCHISES NOT YET OPERATIONAL. SEGREGATE DISCLOSURE BY STATE. TOTAL EACH CATEGORY.
- B. THE NAMES OF ALL FRANCHISEES AND THE ADDRESSES AND TELEPHONE NUMBERS OF ALL OF THEIR OUTLETS. THE FRANCHISOR MAY LIMIT ITS DISCLOSURE TO ALL FRANCHISEE OUTLETS IN THE STATE, BUT IF THESE FRANCHISEE OUTLETS TOTAL FEWER THAN 100, DISCLOSE FRANCHISEE OUTLETS FROM ALL CONTIGUOUS STATES AND THEN THE NEXT CLOSEST STATE(S) UNTIL AT LEAST 100 FRANCHISEE OUTLETS ARE LISTED.
- C. THE ESTIMATED NUMBER OF FRANCHISES TO BE SOLD DURING THE 1 YEAR PERIOD AFTER THE CLOSE OF THE FRANCHISOR'S MOST RECENT FISCAL YEAR.
- D. THE NUMBER OF FRANCHISEE OUTLETS IN THE FOLLOWING CATEGORIES THAT, FOR THE 3-YEAR PERIOD IMMEDIATELY BEFORE THE CLOSE OF FRANCHISOR'S MOST RECENT FISCAL YEAR HAVE:
  - (1) TRANSFERRED CONTROLLING OWNERSHIP;
  - (2) BEEN CANCELLED OR TERMINATED BY THE FRANCHISOR;
  - (3) NOT BEEN RENEWED BY THE FRANCHISOR;
  - (4) BEEN REACQUIRED BY THE FRANCHISOR; OR
  - (5) BEEN REASONABLY KNOWN BY THE FRANCHISOR TO HAVE OTHERWISE CEASED TO DO BUSINESS IN THE SYSTEM.

- E. THE NAME AND LAST KNOWN HOME ADDRESS AND TELEPHONE NUMBER OF EVERY FRANCHISEE WHO HAS HAD AN OUTLET TERMINATED, CANCELLED, NOT RENEWED, OR OTHERWISE VOLUNTARILY OR INVOLUNTARILY CEASED TO DO BUSINESS UNDER THE FRANCHISE AGREEMENT DURING THE MOST RECENTLY COMPLETED FISCAL YEAR OR WHO HAS NOT COMMUNICATED WITH THE FRANCHISOR WITHIN 10 WEEKS OF THE APPLICATION DATE.

### Item 20 Instructions:

- i. Do not include a transfer when beneficial ownership of the franchise does not change.
- ii. List an outlet that is reacquired by the franchisor in that column whether or not it also fits another category.
- iii. Other than the franchisee names, addresses, and telephone numbers, disclose Item 20 information in tabular form. Use footnotes or a "remarks" column to elaborate on information in the table or to disclose caveats. Disclose the number of franchised and franchisor owned outlets sold, opened and closed. Disclose the total number of franchised and franchisor owned outlets open at the end of each year. Disclose information for each of the last 3 fiscal years.
- iv. If an outlet has been operated by more than one franchisee, disclose each transfer in the transfer column.
- v. Disclose information about franchisor owned outlets that are substantially similar to the franchised outlets. In this Item "franchisor owned" outlets include outlets owned by the franchisor and by its affiliates. Use a separate table with a format similar to the format for franchised outlets. The same table may be used if the franchisor owned outlets are separated from franchised outlets.
- vi. For franchisees operating within the system disclose franchisee business addresses and telephone numbers. List outlets owned by the persons listed in Item 2 and their immediate families or by business entities owned by them as franchisor owned outlets. These outlets can be identified in the table by an asterisk.
- vii. Separate information by state. List all states for which franchisor has information responsive to this Item.
- viii. When the requirement states "most recent fiscal year," the franchisor may use a more recent date if it discloses that date and uses that date for all disclosures in this Item.
- ix. When the requirement states "most recent fiscal year," the state may require a more recent date.

# State Corporation Commission

Sample Answer 20

## FRANCHISED STORE STATUS SUMMARY FOR YEARS 1992/1991/1990

STATE	TRANSFERS	CANCELLED OR TERMINATED	NOT RENEWED	REACQUIRED BY FRANCHISOR	LEFT THE SYSTEM OTHER	TOTAL FROM LEFT COLUMNS (2)	FRANCHISES OPERATING AT YEAR END
Alaska							2/0/0
Arizona	2/1/0					2/1/0	8/6/2
Arkansas							6/4/2
California					1/1/0	1/1/0	4/0/0
Colorado							3/3/3
Connecticut							5/3/1
Delaware		1/0/0				1/0/0	6/4/0
Florida							2/0/0
Georgia							2/0/0
Idaho							2/0/0
Totals	2/1/0	1/0/0	0/0/0	0/0/0	1/0/0	4/2/0	40/20/8

1) Note: All numbers are as of December 31 for each year.

2) The numbers in the "Total" column may exceed the number of stores affected because several events may have affected the same store. For example, the same store may have had multiple owners.

## STATUS OF COMPANY OWNED STORES FOR YEARS 1992/1991/1990

STATE	STORES CLOSED DURING YEAR	STORES OPENED DURING YEAR	TOTAL STORES OPERATING AT YEAR END
Alaska			
Arizona			
Arkansas			
California			
Colorado			
Connecticut			
Delaware			
Florida			
Georgia			
Idaho			
	0/0/0	0/0/0	0/0/0

Note: Belmont no longer operates company owned stores.

## PROJECTED OPENINGS AS OF DECEMBER 31, 1992

STATE	FRANCHISE AGREEMENTS SIGNED BUT STORE NOT OPEN (1)	PROJECTED FRANCHISED NEW STORES IN THE NEXT FISCAL YEAR	PROJECTED COMPANY OWNED OPENINGS IN NEXT FISCAL YEAR
Alaska	1	1	
Arizona			
Arkansas			
California			
Colorado			
Connecticut		2	
Delaware			
Florida			
Georgia			
Idaho	1		0
Totals	2	3	

Note (1) As of December 31, 1992

# State Corporation Commission

## Item 21 FINANCIAL STATEMENTS

PREPARE FINANCIAL STATEMENTS IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. THESE FINANCIAL STATEMENTS MUST BE AUDITED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT. UNAUDITED STATEMENTS MAY BE USED FOR INTERIM PERIODS. INCLUDE THE FOLLOWING FINANCIAL STATEMENTS.

- A. THE FRANCHISOR'S BALANCE SHEETS FOR THE LAST TWO FISCAL YEAR ENDS BEFORE THE APPLICATION DATE. IN ADDITION INCLUDE STATEMENTS OF OPERATIONS, OF STOCKHOLDERS EQUITY AND OF CASH FLOWS FOR EACH OF THE FRANCHISOR'S LAST THREE FISCAL YEARS. IF THE MOST RECENT BALANCE SHEET AND STATEMENT OF OPERATIONS ARE AS OF A DATE MORE THAN 90 DAYS BEFORE THE APPLICATION DATE, THEN ALSO SUBMIT AN UNAUDITED BALANCE SHEET AND STATEMENT OF OPERATIONS AS OF A DATE WITHIN 90 DAYS OF THE APPLICATION DATE.
- B. AFFILIATED COMPANY STATEMENTS. INSTEAD OF THE DISCLOSURE REQUIRED BY ITEM 21A, THE FRANCHISOR MAY INCLUDE FINANCIAL STATEMENTS OF ITS AFFILIATED COMPANY IF THE AFFILIATED COMPANY'S FINANCIAL STATEMENTS SATISFY ITEM 21A AND THE AFFILIATED COMPANY ABSOLUTELY AND UNCONDITIONALLY GUARANTEES TO ASSUME THE DUTIES AND OBLIGATIONS OF THE FRANCHISOR UNDER THE FRANCHISE AGREEMENT.
- C. CONSOLIDATED AND SEPARATE STATEMENTS:
  - (1) WHEN A FRANCHISOR OWNS A DIRECT OR BENEFICIAL, CONTROLLING FINANCIAL INTEREST IN ANOTHER CORPORATION, ITS FINANCIAL STATEMENTS SHOULD REFLECT THE FINANCIAL CONDITION OF THE FRANCHISOR AND ITS SUBSIDIARIES.
  - (2) IF THE APPLICANT IS A SUBFRANCHISOR INCLUDE SEPARATE FINANCIAL STATEMENTS FOR THE FRANCHISOR AND SUBFRANCHISOR RELATED ENTITY.
  - (3) PREPARE CONSOLIDATED AND SEPARATE FINANCIAL STATEMENTS IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

### Item 21 Instructions:

- i. Financial statements additional to those listed in this Item may be required.
- ii. A company controlling 80% or more of a franchisor may be required to include its financial statements.
- iii. Present required financials in a format of columns which compare at least 2 fiscal years.

iv. In Item 21A, the required financial statements for a franchisor with a calendar fiscal year end and a July 15, 1989 application filing date are:

- a) Unaudited balance sheet as of either April 30, May 31 or June 30, 1989 with an unaudited income statement for the period from January 1, 1989 to the date of the balance sheet;
  - b) Balance sheets, statements of operations, of stockholders equity and of cash flow. The balance sheets should be audited and as of December 31, 1987 and 1988. The remaining statements should be audited and should be for periods ending December 31, 1986, 1987 and 1988; and
  - c) If the franchisor has never had an audit, it need not supply the financial statement required by (b) if it supplies either an audit as of its last fiscal year end or the statements required by (a) in an audited form.
- v. In the Item 21B response, the affiliate's guarantee need cover only the franchisor's obligations to the franchisee. The guarantee need not extend to third parties. For a sample guarantee refer to Form F.
- vi. Disclose the existence of a guarantee.

## Item 22 CONTRACTS

ATTACH A COPY OF ALL AGREEMENTS PROPOSED FOR USE OR IN USE IN THIS STATE REGARDING THE OFFERING OF A FRANCHISE, INCLUDING, THE FRANCHISE AGREEMENT, LEASES, OPTIONS AND PURCHASE AGREEMENTS.

### Item 22 Instructions:

- i. Copies of agreements attached to the offering circular under Item 22 are part of the offering circular. Each offering circular delivered to a prospective franchisee must include copies of all agreements to be offered.
- ii. The franchisor may cross reference Item 10 for financing agreements.

## Item 23 RECEIPT

THE LAST PAGE OF THE OFFERING CIRCULAR IS A DETACHABLE DOCUMENT ACKNOWLEDGING RECEIPT OF THE OFFERING CIRCULAR BY THE PROSPECTIVE FRANCHISEE. IT MUST CONTAIN THE FOLLOWING STATEMENT IN BOLDFACE TYPE:

**THIS OFFERING CIRCULAR SUMMARIZES CERTAIN PROVISIONS OF THE FRANCHISE AGREEMENT AND OTHER INFORMATION IN PLAIN LANGUAGE. READ THIS OFFERING CIRCULAR AND ALL AGREEMENTS CAREFULLY.**

**IF OFFERS YOU A FRANCHISE, MUST PROVIDE THIS OFFERING CIRCULAR TO YOU BY THE EARLIEST OF:**

- (1) THE FIRST PERSONAL MEETING TO DISCUSS OUR FRANCHISE; OR
- (2) TEN BUSINESS DAYS BEFORE THE SIGNING OF A BINDING AGREEMENT; OR
- (3) TEN BUSINESS DAYS BEFORE A PAYMENT TO

YOU MUST ALSO RECEIVE A FRANCHISE AGREEMENT CONTAINING ALL MATERIAL TERMS AT LEAST FIVE BUSINESS DAYS BEFORE YOU SIGN A FRANCHISE AGREEMENT.

IF DOES NOT DELIVER THIS OFFERING CIRCULAR ON TIME OR IF IT CONTAINS A FALSE OR MISLEADING STATEMENT, OR A MATERIAL OMISSION, A VIOLATION OF FEDERAL AND STATE LAW MAY HAVE OCCURRED AND SHOULD BE REPORTED TO THE FEDERAL TRADE COMMISSION, WASHINGTON, D.C. 20580 AND (STATE AGENCY).

**Item 23 Instructions:**

1. Place the name of the franchisor in the blank and in the case of a multi-state offering, the state agency may be included as an exhibit.
2. Make two copies of the Receipt: one for retention by the franchisee and one by the franchisor.
3. Disclose the name, principal business address and telephone number of the subfranchisor or franchise broker offering the franchise in this state.
4. List the title of all attached exhibits.
5. Effective Date: (Leave blank until notified of effectiveness by state regulatory authority. (In a multi-state offering the effective date may refer to an exhibit.)
6. The name and address of the franchisor's registered agent authorized to receive service of process if not disclosed in Item 1.

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Sample Answer 23

**RECEIPT**

THIS OFFERING CIRCULAR SUMMARIZES PROVISIONS OF THE FRANCHISE AGREEMENT AND OTHER INFORMATION IN PLAIN LANGUAGE. READ THIS OFFERING CIRCULAR AND ALL AGREEMENTS CAREFULLY.

IF BELMONT OFFERS YOU A FRANCHISE, BELMONT MUST PROVIDE THIS OFFERING CIRCULAR TO YOU BY THE EARLIEST OF:

- (1) THE FIRST PERSONAL MEETING TO DISCUSS OUR FRANCHISE; OR
- (2) TEN BUSINESS DAYS BEFORE SIGNING OF A BINDING AGREEMENT; OR
- (3) TEN BUSINESS DAYS BEFORE ANY PAYMENT TO BELMONT.

YOU MUST ALSO RECEIVE A FRANCHISE AGREEMENT CONTAINING ALL MATERIAL TERMS AT LEAST FIVE BUSINESS DAYS BEFORE YOU SIGN ANY FRANCHISE AGREEMENT.

IF BELMONT DOES NOT DELIVER THIS OFFERING CIRCULAR ON TIME OR IF IT CONTAINS A FALSE OR MISLEADING STATEMENT, OR A MATERIAL OMISSION, A VIOLATION OF FEDERAL AND STATE LAW MAY HAVE OCCURRED AND SHOULD BE REPORTED TO THE FEDERAL TRADE COMMISSION, WASHINGTON, D.C. 20580 AND (STATE AGENCY).

Belmont authorizes Legal Process Corp at 448 West Washington Avenue, City, State to receive service of process for Belmont.

I have received a Uniform Franchise Offering Circular dated . This offering circular included the following Exhibits:

- A. License Agreement
- B. Equipment Lease
- C. Lease for Premises
- D. Loan Agreement

Date

Franchisee

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# State Corporation Commission

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Form A - Facing Page

7/1/95

## UNIFORM FRANCHISE REGISTRATION APPLICATION

(Insert file number  
of previous filings  
of Applicant)

FEE: \_\_\_\_\_  
Enclosed when  
application is  
initially filed)

APPLICATION FOR (Check only one):

\_\_\_\_\_ REGISTRATION OF AN OFFER AND SALE OF FRANCHISES

\_\_\_\_\_ REGISTRATION RENEWAL STATEMENT OR ANNUAL REPORT

AMENDMENT NUMBER \_\_\_\_\_ TO APPLICATION

\_\_\_\_\_ POST-EFFECTIVE FILED UNDER SECTION \_\_\_\_\_

\_\_\_\_\_ PRE-EFFECTIVE DATED \_\_\_\_\_

1. Name of Franchisor. (If applicant is subfranchisor, the name of the subfranchisor.)

Name under which the Franchisor is doing or intends to do business.

2. Franchisor's principal business address.

Name and address of Franchisor's agent in the State of (Name of State) authorized to receive process.

3. Name, address and telephone number of subfranchisors, if any, for this state.

4. Name, address and telephone number of person to whom communications regarding this application should be directed.

Form B - Supplemental Information

7/1/95

SUPPLEMENTAL INFORMATION

1. *Disclose:*
  - A. *The states in which this proposed registration application is effective.*
  - B. *The states in which this proposed registration application is or will be shortly on file.*
  - C. *The states that have refused to register this franchise offering.*
  - D. *The states that have revoked or suspended the right to offer franchises.*
  - E. *The states in which this proposed registration of these franchises has been withdrawn within the last five years, and the reasons for revocation or suspension.*

2. *Source of Funds for Establishing New Franchises*

*Disclose franchisor's total costs for performing its pre-opening obligations to provide goods or services in connection with establishing each franchise, including real estate, improvements, equipment, inventory, training and other items stated in the offering. State separately the sources of all required funds.*



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# State Corporation Commission

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Form C - Certification

7/1/95

I certify under penalty of law that I have read and know the contents of this application and the documents attached as exhibits and incorporated by reference and that the statements in all these documents are true and correct.

Executed at \_\_\_\_\_, \_\_\_\_\_, 19\_\_\_\_

(Signature(s) of Franchisor and/or Subfranchisor)

By \_\_\_\_\_

(Seal)

Title \_\_\_\_\_

STATE OF \_\_\_\_\_ )

) ss.

COUNTY OF \_\_\_\_\_ )

Personally appeared before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ the above-named \_\_\_\_\_ and \_\_\_\_\_ to me known to be the person(s) who executed the foregoing application (as \_\_\_\_\_ and \_\_\_\_\_ respectively, of the above-named applicant) and (each), being first duly sworn, stated upon oath that said application, and all exhibits submitted herewith, are true and correct.

\_\_\_\_\_  
\_\_\_\_\_  
(Notary)

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# State Corporation Commission

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## CORPORATE ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me \_\_\_\_\_  
(Name of Notary)

the undersigned officer, personally appeared \_\_\_\_\_ and \_\_\_\_\_ known personally to me to be the \_\_\_\_\_ President and \_\_\_\_\_ Secretary, respectively, of the above-named corporation, and that they, as such officers, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by themselves as such officers.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

\_\_\_\_\_  
(Notary Public)

(NOTARIAL SEAL) My commission expires: \_\_\_\_\_

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## INDIVIDUAL OF PARTNERSHIP ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, \_\_\_\_\_, the undersigned officer, personally appeared \_\_\_\_\_ to me personally known and known to me to be the same person(s) whose name(s) is (are) signed to the foregoing instrument, and acknowledged the execution thereof for the uses and purposes therein set forth.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

\_\_\_\_\_  
(Notary Public)

(NOTARIAL SEAL) My commission expires: \_\_\_\_\_

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# State Corporation Commission

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Form D

7/1/95

## UNIFORM CONSENT TO SERVICE OF PROCESS

\_\_\_\_\_, (a corporation organized under the laws of the State of \_\_\_\_\_) (a partnership) (an individual) \_\_\_\_\_, irrevocably appoints the \_\_\_\_\_ (regulatory authority) and the successors in office, its attorney in the State of \_\_\_\_\_ for service of notice, process or pleading in an action or proceeding against it arising out of or in connection with the sale of franchises, or a violation of the franchise laws of \_\_\_\_\_, and consents that an action or proceeding against it may be commenced in a court of competent jurisdiction and proper venue within \_\_\_\_\_ by service of process upon this officer with the same effect as if the undersigned was organized or created under the laws of \_\_\_\_\_ and had lawfully been served with process in \_\_\_\_\_. It is requested that a copy of any notice, process or pleading served this consent be mailed to:

\_\_\_\_\_  
(Name and address)

Dated: \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
By \_\_\_\_\_

Title \_\_\_\_\_

(SEAL)

By \_\_\_\_\_

Title \_\_\_\_\_

# State Corporation Commission

FORM E  
7/1/95

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
Division of Securities and Retail Franchising

**Affidavit of Compliance -- Franchise Amendment/Renewal**

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_, being duly sworn, deposes and says:

1. This affidavit is submitted in connection with an application to amend/renew the effective franchise registration of \_\_\_\_\_ in accordance with Rule S.VRFA 6 or 7. (Name of Franchisor/Subfranchisor)
2. To the best of my knowledge, the franchisor/subfranchisor on whose behalf the application to amend/renew is made:
  - a. Has not, since the effective date of its most recent application, been convicted of any crime or been held liable in a civil action by final judgment involving a felony, an act of fraud, a misdemeanor involving a franchise, or a knowing or willful violation of the Virginia Retail Franchising Act; and
  - b. Is not insolvent or in danger of becoming insolvent, either in the sense that its liabilities exceed its assets (determined in accordance with Generally Accepted Accounting Principles) or in the sense that it cannot meet its obligations as they mature.
3. The revised franchise disclosure document submitted in connection with the application to amend/renew is, to the best of my knowledge, in compliance with the requirements of Rule S. VRFA 12.

Executed at \_\_\_\_\_, \_\_\_\_\_, 19 \_\_\_\_\_

\_\_\_\_\_  
Name of Franchisor/Subfranchisor

By: \_\_\_\_\_ (SEAL)

Title: \_\_\_\_\_

Select Amendment Effective Date

Select Renewal Effective Date

\_\_\_\_ Immediately Upon Request

\_\_\_\_ Immediately Upon Receipt

\_\_\_\_ 19 \_\_\_\_

\_\_\_\_ 19 \_\_\_\_

Note: When a renewal application includes amendments, a selection should be made for both the amendments and the renewal. If no selection is made, the effectiveness will be immediately upon receipt by the Commission.

Subscribed and sworn to before me, a Notary Public, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_ My Commission Expires: \_\_\_\_\_ (NOTARY'S SEAL)  
NOTARY PUBLIC

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# State Corporation Commission

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Form F

7/1/95

## GUARANTEE OF PERFORMANCE

For value received \_\_\_\_\_ located at  
\_\_\_\_\_, absolutely and unconditionally  
(Address)

guarantees the performance by \_\_\_\_\_ located at  
\_\_\_\_\_ of all of the obligations of  
(Address)

under its franchise registration in the State of \_\_\_\_\_ dated  
(Name of state or province)

\_\_\_\_\_ and of its Franchise Agreement.  
(Effective date of renewal)

This guarantee continues until all obligations of \_\_\_\_\_ under the franchise registration and franchise agreement are satisfied. \_\_\_\_\_ is not discharged from liability if a claim by the franchise against \_\_\_\_\_ remains outstanding. Notice of acceptance is waived. Notice of default on the part of \_\_\_\_\_ is not waived. This guarantee is binding on \_\_\_\_\_ and on its successors and assignees.

\_\_\_\_\_ executes this guarantee at  
(Parent)

\_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

\_\_\_\_\_  
(Parent)

By: \_\_\_\_\_

Title: \_\_\_\_\_

# State Corporation Commission

FORM G

7/1/95

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
DIVISION OF SECURITIES AND RETAIL FRANCHISING

**FRANCHISOR'S SURETY BOND**

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the State Corporation Commission has required \_\_\_\_\_ to furnish a surety bond as a condition of registration (or renewal of registration) of its franchises as defined in Title 13.1, Chapter 8, Code of Virginia (1950), as amended, and conditioned as provided by law.

NOW, THEREFORE, \_\_\_\_\_, as principal and \_\_\_\_\_, as surety, acknowledge themselves indebted and firmly bound unto the COMMONWEALTH OF VIRGINIA in the penal sum of \_\_\_\_\_ thousand dollars to the payment of, which will and truly be made, they jointly and severally bind themselves, their successors and assigns, firmly by these presents.

THE CONDITIONS of this obligation are such that if the principal satisfies all criminal and civil penalties, or either, provided in Title 13.1, Chapter 8, Code of Virginia (1950), as amended, for which said principal may become liable, then this obligation shall be null and void; otherwise to be and remain in full force and effect.

IT IS AGREED that this obligation is to remain in force until cancelled by the surety by thirty days written notice to the principal and the State Corporation Commission.

WITNESS the following signatures and seals this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Principal (SEAL)

\_\_\_\_\_  
Surety (SEAL)

\_\_\_\_\_  
by Attorney-in-fact

Countersigned:

\_\_\_\_\_  
Name of Agency

by: \_\_\_\_\_  
Registered Virginia Agent

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# State Corporation Commission

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Commentary Dated June 21, 1994 On The Uniform Franchise  
Offering Circular

## INTRODUCTION

On April 25, 1993, the North American Securities Administrators Association ("NASAA") adopted amendments to the Uniform Franchise Offering Circular ("new UFOC"). Adoption followed several years of work by the NASAA Franchise and Business Opportunities Committee ("NASAA Committee").

After adoption of the new UFOC, members of the Franchise Advisory Committee ("Advisory Committee") and other interested parties brought to the NASAA Committee's attention certain issues under the new UFOC where they believed additional interpretation and clarification would be helpful.

In response to the concerns of the Advisory Committee, which consulted with the NASAA Committee during the process of drafting the new UFOC, the NASAA Committee agreed that a "Commentary" to the new UFOC would be valuable to franchisors drafting offering circulars pursuant to the new UFOC and to franchise examiners and enforcement agencies reviewing offering circulars. The Commentary is not intended to change any substantive requirements of the new UFOC and, therefore, does not require formal approval by NASAA or by the Federal Trade Commission.

The NASAA Committee and the Advisory Committee met in Richmond, Virginia in January of 1994 to discuss these interpretational concerns. This Commentary is a result of the Richmond meeting and additional discussions and drafting since the meeting. The Commentary is intended to clarify and provide interpretations of specific provisions of the new UFOC. The issues covered by the Commentary are presented in a question-and-answer format.

### Issue #1 - Instruction 265 - Phase-In

The new UFOC is effective 6 months after the last franchise regulatory state (or the FTC) approves it, but no later than January 1, 1995. Can a franchisor begin using the new format in a state which has approved the new UFOC (and after FTC approval) but before the national effective date?

Answer

A circular prepared in accordance with the new UFOC may be used in a state after that state and the FTC have approved the new format. (FTC approval was given on December 30, 1993.) Thus, after state and FTC approval, either a new or old format circular may be used in that state. After the national effective date, only a new UFOC may be used in connection with an initial filing or renewal.

### Issue #2 - Instruction 265 - Amendments

If a franchisor files an amendment (for example, to change personnel in Item 2 or add litigation in Item 3) after the national effective date but before its next renewal date, is it required to change-over the entire UFOC to the new format at that time?

Answer

An amendment filing is not required to be on the new format until after the franchisor submits a new UFOC in its first renewal (or annual report) after the national effective date (however, see FTC Staff Advisory Opinion 94-1 CCH Business Franchise Guide ¶6457).

It may be advisable, but is not required, for a franchisor to amend its registration before the national effective date to change-over to the new UFOC (to avoid potential delays in review and approval during 1995). Because of the nature of this type of amendment filing (that is, an amendment only for the purpose of changing over to the new UFOC), a franchisor should not have to stop offering franchises during the review period.

### Issue #3 - Instruction 265 - "Re-Registration"

The word "re-registration" appears in Instruction 265. What does it mean?

Answer

The word "re-registration" was intended to cover a franchisor who had been registered in the past but whose registrations have since lapsed and now is filing to become registered again.

### Issue #4 - Instruction 265 - Phase-In for Non-Registration States

If a franchisor has not registered its offering in any state, when is it required to convert to the new UFOC?

Answer

The FTC phase-in requirements will apply.

### Issue #5 - Item 1 - "Predecessor"

Is the definition of "predecessor" in instruction iii of Item 1 applicable to Item 1 only or is it applicable throughout the UFOC, for example, to the use of "predecessor" in Items 3 and 4?

Answer

The definition of predecessor in instruction iii to Item 1 should be applied throughout the UFOC.

### Issue #6 - Item 1 - Predecessor Disclosure Period

Is the ten year period regarding predecessor disclosure in instruction iv to Item 1 applicable to Item 1 only or is it also applicable to predecessor information in Items 3 and 4?

Answer

The ten year period referred to instruction iv of Item 1 is also applicable to predecessor disclosure in Items 3 and 4.

### Issue #7 - Item 1 - "Affiliate"

What definition of "affiliate" should be used in the new UFOC?

## Answer

As a general rule in the new UFOC, an "affiliate" is "a person (other than a natural person) controlled by, controlling or under common control with the franchisor". This definition applies to all Items unless a particular Item defines it differently or limits its use. For example, Item 1, instruction v, limits the general definition to an affiliate "which is offering franchises in any line of business or is providing products or services to the franchisees of the franchisor". Also, Item 3, instruction i, limits the general definition to an affiliate "offering franchises under the franchisor's principal trademarks".

### Issue #8 - Item 1 - Government Regulations

Item 1E, instruction vi, refers to "regulations specific to the industry in which the franchise business operates." How broadly does this extend? How much detail is required about these regulations? For example, a restaurant franchisor might refer to food service health and sanitation codes since those are industry-focused. Child labor laws, while not industry-specific, impact on the fast food business. Should they be mentioned and, if so, what about other general laws that have a significant impact on a particular type of business format?

## Answer

The instruction states that it is unnecessary to refer to laws that "apply to businesses generally". A fast food franchisor, therefore, would not be required to refer to child labor laws or other general categories of laws even if those laws have a substantial or disproportionate impact on the business being franchised. In addition, generally-applicable regulations such as local signage restrictions, no-fault liability insurance requirements, business licensing laws (as opposed to professional licensing laws), tax regulations and labor laws need not be disclosed. Only laws that pertain solely and directly to the industry sector of which the franchised business is a part must be disclosed in this Item. Examples include:

- A real estate brokerage franchisor should disclose that broker licensing laws will apply to the franchisee.
- An optical products franchisor should disclose the existence of applicable optometrist/optician staffing regulations and licensing requirements.
- A lawn care franchisor should disclose that certain laws regulating pesticide application to residential lawns will require that franchisees post notices on treated lawns.

In any case where industry-specific laws are disclosed, statutory citation and identification are unnecessary; the disclosure should state that a specific type of regulation exists and that the prospective franchisee should investigate the matter further.

### Issue #9 - Item 3 - Confidential Settlements

Under the old UFOC, franchisors were not required to disclose the terms of confidential settlements. Are the terms

of confidential settlements required to be disclosed under the new UFOC?

## Answer

If a settlement agreement must be disclosed under Item 3B of the new UFOC, all material settlement terms must be disclosed, whether or not the agreement is confidential. However, because of difficulties in retrieving information and/or obtaining releases from confidentiality agreements, for confidential settlements entered into before April 25, 1993 (the date of NASAA's approval of the new UFOC), a franchisor may disclose only the information required under the old UFOC.

### Issue #10 - Item 3 - Dismissals

Based on the last sentence of section ii of Item 3, Definitions, may actions which are dismissed in the context of a settlement be omitted from Item 3?

## Answer

The last sentence of section ii of Item 3, Definitions, allows the omission of an action which is dismissed as a result of a concluded adversarial proceeding, but is not intended to cover dismissal of an action in connection with a settlement. The standards for determining whether a settlement must be disclosed (or may be omitted) are described in section iv of Item 3, Definitions.

### Issue #11 - Item 3 - Other Material Actions

Are only actions of the types enumerated in Item 3 required to be disclosed?

## Answer

The requirement that a franchisor disclose actions which include allegations of violations of franchise, antitrust or securities law, or fraud, unfair or deceptive practices, or comparable allegations should not be narrowly construed in drafting disclosure for Item 3. Most franchise laws generally prohibit, among other things, omissions of material fact. The courts have generally interpreted "material facts" or "materiality" to include information which a reasonable investor would deem to be significant when making an investment decision. Franchisors should not limit disclosure solely to those items enumerated in Item 3 if a materiality analysis requires disclosure of an action.

### Issue #12 - Item 3 - Foreign Litigation

Are franchisors required to disclose foreign (outside the United States) actions in Item 3 of the UFOC?

## Answer

Item 3 is not limited to disclosure of actions which have been filed in the United States. Franchisors must disclose all material litigation, even if the actions are in a foreign court or arbitration forum.

### Issue #13 - Item 4 - Bankruptcy

Item 4 requires disclosure of bankruptcy information about "officers." Does this include everyone listed in Item 2?



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# State Corporation Commission

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## Answer

Only "officers" are required to make bankruptcy disclosures in Item 4, not every person listed in Item 2. "Officers" includes those individuals whose duties include some or all of the duties typically performed by the chief executive and chief operating, financial, franchise marketing, training and service officers. It also includes "de facto" officers, those individuals who have management responsibility in connection with the operation of the franchisor's business relating to the franchises offered by the offering circular but whose title does not reflect the nature of the position. A member of the Board of Directors who is not also an officer (as described above) is not covered by this disclosure.

## Issue #14 - Item 5 - Initial Fees Paid to Affiliates

If the franchisee makes any payments to affiliates of the franchisor before the franchisee's business opens, must this be disclosed as an "initial fee"?

## Answer

"Initial fees" includes all fees and payments received by the franchisor and its affiliates before the franchisee's business opens.

## Issue #15 - Item 7 - Initial Phase

The new UFOC requires disclosure of certain information during the "initial phase" of operation of the franchised business and indicates that it is ordinarily 3 months. Is the initial phase always 3 months? Or must a franchisor use a longer period if that is typical in its industry? Also, does the "initial phase" requirement apply to any line item in Item 7 other than "additional funds"?

## Answer

A franchisor may use either a 3 month initial phase, or an initial phase longer than 3 months if the length of time is a "reasonable period for the industry" and if earnings claims problems can be avoided (for example, by complying with Item 19).

Only the additional funds line item is covered by the "initial phase" requirement, but it may also be appropriate in some cases to disclose real estate costs during the initial phase. In addition, fees paid to the franchisor during the initial phase may be disclosed, so long as earnings claims problems can be avoided (for example, by complying with Item 19). All other expenditures, such as for inventory, should only be stated through the franchise opening date.

## Issue #16 - Item 8 - Scope

A variety of terminology is used throughout Item 8 to refer to a wide range of sourcing restrictions. For example, although the requirements refer to all sourcing restrictions, reference is made in Instruction iii to "required purchases" and in Instruction vii to "designated" suppliers. What is the scope of Item 8?

## Answer

Item 8 requires disclosure of all restrictions on the freedom of the franchisee to obtain goods, real estate, services, etc. from sources of the franchisee's choosing, and of all means by which a franchisor may derive revenue as a result of franchisee purchases or leases of goods and services. As a result, for example, Instruction iii encompasses all revenues a franchisor (or its affiliates) derives from purchases and leases of products and services to franchisees. Also, Instruction vii requires the disclosure of all rebates paid by designated suppliers, approved suppliers and suppliers whose goods and services meet specifications.

## Issue #17 - Item 8 - Rebates for Advertising

If a supplier makes payments to an advertising fund or advertising co-op, must this be reported?

## Answer

If the payments are made to an independent advertising co-op, disclosure is not required. Payments to an advertising fund directly or indirectly controlled by the franchisor must be reported.

## Issue #18 - Item 8 - Rebates from Other Parties

If the supplier of goods to franchisees is a distributor who buys from a manufacturer and the manufacturer pays rebates to the franchisor, must this be disclosed?

## Answer

Rebates paid by all third parties involved in the product distribution process must be disclosed.

## Issue #19 - Item 8 - Rebates to Affiliates

If rebates are paid by suppliers to an affiliate of the franchisor, must these rebates be disclosed?

## Answer

Rebates paid by suppliers to the franchisor's affiliates must be disclosed.

## Issue #20 - Item 8 - Rebates - Identity of Suppliers

Although the sample answer identifies suppliers who pay rebates, the instruction does not require such identification. Must the franchisor identify by name suppliers who pay rebates?

## Answer

Franchisors are not required to identify by name any suppliers who pay rebates.

## Issue #21 - Item 8 - Product Discounts

Instruction vii indicates that a franchisor who pays less than its franchisees for products bought from a common source has received a "payment" from a supplier. Is this intended to encompass every situation where a franchisor pays less than a franchisee?

## Answer

If a franchisor receives a "special deal" on the purchase of products that a vendor also supplies to franchisees, this constitutes a "payment" to the franchisor for purposes of this disclosure. It is not a payment, however, if a franchisor takes advantage of a volume discount or other program which the supplier makes available to all other buyers, including franchisees.

## Issue #22 - Item 8 - Rebate Reporting

Can a franchisor choose to report either the dollar amount of the rebates or the percentage paid on purchases by franchisees?

## Answer

A franchisor can choose to report rebates in either of 2 formats: the actual dollar amounts paid or the percentage rebate based on franchisee purchases. Thus, if a number of suppliers pay rebates and a franchisor chooses the latter reporting method, its circular might state that it received rebates from suppliers ranging from 1% to 5% of the amount of purchases by franchisees from such suppliers.

## Issue #23 - Item 8 - Cooperatives

Must cooperatives be identified under Item 8F?

## Answer

If a franchisee is required to participate in a purchasing or distribution cooperative, it must be identified. If participation is voluntary, it need not be identified but the franchisor must disclose that one or more cooperatives exist.

## Issue #24 - Item 11 - Advertising

A franchisor must account for its use of monies in the advertising fund by providing a disclosure which allocates dollars to production, media costs, administrative expenses and other. If franchisor personnel are involved in production activities, can such expenses be allocated to production rather than administration?

## Answer

A franchisor's internal costs associated with production of advertising materials may properly be characterized as production expenses. However, the franchisor must have a reasonable basis for claiming the allocation at the time the disclosure is made.

## Issue #25 - Item 11 - Operating Manuals

Can the table of contents (which may be lengthy if there are multiple manuals) be disclosed in an exhibit rather than in the body of text to Item 11? Also, can a franchisor require that a franchisee sign a confidentiality agreement in connection with the "viewing" of a manual? If so, must the confidentiality agreement be attached as an exhibit to the UFOC and do the FTC waiting periods apply?

## Answer

Tables of contents can be incorporated as an exhibit to the UFOC. A confidentiality agreement must be disclosed in the UFOC and the franchisor cannot require that it be signed until 10 business days have elapsed from delivery of the offering circular and 5 business days have elapsed from delivery of the execution copy of the confidentiality agreement.

## Issue #26 - Item 15 - Agreements by Owners

Does Item 15 require the disclosure of all agreements that apply to the franchisee's owners?

## Answer

All agreements relating to the franchise that are binding on the franchisee's owners must be disclosed in this Item.

## Issue #27 - Item 20 - Subfranchise/Area Development Statistics

Does Item 20 require disclosure of data regarding area development, master franchise, subfranchise and similar arrangements in addition to unit/outlet franchise statistics?

## Answer

All area development, master franchise, subfranchise or similar arrangements must be disclosed in Item 20 of the franchisor's offering circular. If there are only a few arrangements like this in a system, the disclosure may be provided in the text or in a subordinate table rather than in the main chart. Whatever format is used, it must include all of the information which would be required in the chart.

## Issue #28 - Item 20 - System Statistics in Subfranchisor Offering Circulars

In an offering circular prepared by a subfranchisor in a particular region, must its Item 20 also reflect national statistics for the franchisor in addition to the statistics from the subfranchisor's region?

## Answer

In the example, Item 20 must contain 2 sets of charts: one set for statistics from the subfranchisor's region and one set reflecting national data for the franchise being offered by the franchisor and other subfranchisors.

## Issue #29 - Item 20 - Former Franchisees

Item 20E requires a list of home addresses and phone numbers of former franchisees. Can a franchisor answer this to the best of its knowledge? If the former franchisee is a corporation, is the corporate headquarters a home address?

## Answer

A franchisor must disclose the last known home address of a former franchisee. Where the former franchisee is a corporation, the franchisor must disclose either the business address of the corporation or the address of a principal officer of the corporation.

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# State Corporation Commission

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## CONCLUSION

*This Commentary is intended to be a living document which provides interpretative assistance to all members of the franchise community and regulatory authorities. As the need arises at reasonable intervals in the future, the NASAA Committee may consider additions, deletions and amendments to the Commentary.*

*The NASAA Committee acknowledges the assistance of many segments of the franchise community for their contributions to this Commentary and, in particular, its Advisory Committee, whose current members are as follows:*

<i>Dennis Wieczorek, Chair</i>	<i>Mark Hamer</i>
<i>Rupert Barkoff</i>	<i>H. Bret Lowell</i>
<i>Anita Blair</i>	<i>George Rummel</i>
<i>Patrick Carter</i>	<i>Andrew Selden</i>
<i>James Conohan</i>	<i>Neil Simon</i>
<i>Mark Forseth</i>	<i>Leonard Swartz</i>

*Eileen Harrington (Federal Trade Commission) ex officio*

*The Advisory Committee provided substantial assistance in the drafting of the new UFOC and has helped to educate the franchise community and ease the transition to the new format. The Commentary is a product of the cooperative efforts of the NASAA Committee and the Advisory Committee, and we look forward to increased cooperation in the future.*

### *NASAA Franchise and Business Opportunities Committee*

*Steve Maxey, Chair (Virginia)*  
*Delia Burke (Maryland)*  
*Martin Cordell (Washington)*  
*Patricia Struck (Wisconsin)*  
*Jim Turner (Alberta)*  
*Jocelyn Whittey (North Dakota)*

VA.R. Doc. No. R95-415; Filed April 7, 1995, 2:18 p.m.

# MARINE RESOURCES COMMISSION

## MARINE RESOURCES COMMISSION

### EMERGENCY REGULATIONS

**Title of Regulation:** VR 450-01-0087. Unloading Point for Relaying Shellfish.

**Statutory Authority:** §§ 28.2-201, 28.2-801 and 28.2-819 of the Code of Virginia.

**Effective Dates:** April 3, 1995, to April 28, 1995.

**Preamble:**

*This emergency regulation establishes a location where shellfish taken from a condemned shellfish growing area may be offloaded ashore.*

*This emergency regulation is promulgated pursuant to the authority contained in §§ 28.2-201, 28.2-801, and 28.2-819 B of the Code of Virginia. The effective dates of this emergency regulation are April 3, 1995, to April 28, 1995.*

VR 450-01-0087. Unloading Point for Relaying Shellfish.

**§ 1. Purpose.**

*The purpose of this regulation is to protect the public health by providing, in part, for the proper control and handling of shellfish being taken from condemned shellfish growing areas.*

**§ 2. Designated area.**

*Shellfish taken from private grounds in Willoughby Bay may be offloaded at F.D. Hunt's dock on Sunset Creek in Hampton.*

**§ 3. Expiration date.**

*This emergency regulation shall terminate on April 28, 1995.*

/s/ William A. Pruitt  
Commissioner

VA.R. Doc. No. R95-408; Filed April 4, 1995, 12:42 p.m.

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**Title of Regulation:** VR 450-01-0093. Pertaining to Crab Pots.

**Statutory Authority:** § 28.2-210 of the Code of Virginia.

**Effective Dates:** March 28, 1995, through April 27, 1995.

**Preamble:**

*This emergency regulation establishes a requirement for the use of cull rings in crab pots, and is promulgated pursuant to the authority contained in § 28.2-210 of the Code of Virginia. This emergency regulation amends previous VR 450-01-0093, Pertaining to Crab Pots, which was promulgated February 28, 1995, and made effective March 2, 1995. The effective dates of this emergency regulation are March 28, 1995, through April 27, 1995.*

VR 450-01-0093. Pertaining to Crab Pots.

**§ 1. Purpose.**

The purpose of this regulation is to conserve the blue crab resource by promoting the escape of small crabs from crab pots through the use of cull rings.

**§ 2. Cull ring requirements.**

A. It shall be unlawful for any person to place, set or fish any crab pot in Virginia's tidal waters which does not contain at least two unobstructed cull rings of size and location within the pot as hereinafter described, except as provided in subsection B of this section. One cull ring shall be at least 2-5/16 inches inside diameter, and the other cull ring shall be at least 2-3/16 inches inside diameter. These cull rings shall be located one each in opposite exterior side panels of the upper chamber of the pot.

B. The required 2-5/16 inches inside diameter cull ring may be obstructed in crab pots set within the crab dredge areas as set forth in VR 450-01-0012, or within Pocomoke or Tangier Sounds, or on the seaside of Accomack and Northampton Counties.

C. Peeler pots with a mesh size less than 1-1/2 inches shall be exempt from the cull ring requirement.

**§ 3. Penalty.**

Pursuant to § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt  
Commissioner

VA.R. Doc. No. R95-409; Filed April 4, 1995, 2:26 p.m.

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**Title of Regulation:** VR 450-01-0095. Restrictions on Oyster Harvest in Virginia.

**Statutory Authority:** §§ 28.2-201, 28.2-210, and 28.2-507 of the Code of Virginia.

**Effective Dates:** March 28, 1995, to April 28, 1995.

**Preamble:**

*This regulation establishes restrictions on the harvest of oysters from all public oyster grounds in the Chesapeake Bay and its tributaries and on all oyster grounds on the seaside of Eastern Shore. This regulation was promulgated on December 20, 1994, and was effective on December 27, 1994, pursuant to the authority contained in §§ 28.2-201 and 28.2-507 of the Code of Virginia, and was amended effective March 28, 1995, by emergency action of the Marine Resources Commission taken on March 28, 1995, pursuant to § 28.2-210 of the Code of Virginia. The emergency action only amended § 6 by adding quota. As provided in § 28.2-210 of the Code of Virginia, emergency promulgations remain in force for only 30 days from the effective date unless subsequently adopted after public hearing and advertisement as set forth*

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# Marine Resources Commission

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*in §§ 28.2-209, 28.2-211, and 28.2-212 of the Code of Virginia. All provisions of VR 450-01-0095 not changed by this emergency action continue in full force and effect without regard to the provisions of § 28.2-210 of the Code of Virginia. The effective dates of the changes made to VR 450-01-0095 by emergency action are March 28, 1995, to April 28, 1995.*

VR 450-01-0095. Restrictions on Oyster Harvest in Virginia.

## § 1. Purpose.

The purpose of this regulation is to protect and conserve Virginia's oyster resource, which has been depleted by disease, harvesting, and natural disasters.

## § 2. Open season and areas.

The lawful seasons and areas for the harvest of oysters from the public oyster rocks, beds and shoals are as follows:

1. James River Seed Area: October 1, 1994, through April 30, 1995.
2. Jail Island and Point of Shoals Clean Cull Areas: October 1, 1994, through April 30, 1995.
3. Seaside of Eastern Shore: October 1, 1994, through December 31, 1994. Seed harvest shall require a permit from the commission as set forth in § 7 of this regulation.

## § 3. Closed harvest season and areas.

It shall be unlawful for any person to harvest oysters from the following areas during the specified periods:

1. All public oyster grounds in the Chesapeake Bay and its tributaries, including the tributaries of the Potomac River, except the James River Seed Area and the Jail Island and Point of Shoals Clean Cull Areas: October 1, 1994, through September 30, 1995.
2. James River Seed Area and Jail Island and Point of Shoals Clean Cull Areas: May 1, 1995, through September 30, 1995.
3. All oyster grounds on the Seaside of Eastern Shore: January 1, 1995, through September 30, 1995. Oyster harvest from leased oyster ground and fee simple oyster ground shall require a permit from the commission as set forth in § 7 of this regulation.

## § 4. Time limit.

Harvest on public grounds in the James River Seed Area and the Jail Island and Point of Shoals Clean Cull Areas shall be from sunrise to noon, daily, except during the months of January and February when it shall be from sunrise to 2 p.m., daily. It shall be unlawful for any person to harvest oysters from the public grounds in the James River Seed Area or the Jail Island and Point of Shoals Clean Cull Areas prior to sunrise or after noon, daily, or after 2 p.m., daily, during the months of January and February, 1995.

## § 5. Gear restrictions.

It shall be unlawful for any person to harvest oysters from public oyster grounds with shaft tongs longer than 18 feet in total overall length.

## § 6. Quotas.

In the James River Seed Areas there shall be an oyster harvest quota of 80,000 bushels of seed oysters. It shall be unlawful for any person to harvest seed oysters from the James River Seed Area after the 80,000 bushel quota has been reached.

*By emergency action, the seed harvest quota for the 1994-95 oyster season is increased by 40,000 bushels. It shall be unlawful for any person to harvest seed oysters from the James River Seed Area after this additional 40,000 bushel quota has been reached.*

## § 7. Harvest permit required.

A. It shall be unlawful for any person to harvest or attempt to harvest seed oysters from the public oyster grounds, leased oyster grounds, or for fee simple grounds on the Seaside of Eastern Shore during the open season (§ 2) without first obtaining a permit from the Marine Resources Commission.

B. It shall be unlawful for any person to harvest, or attempt to harvest, oysters from leased oyster grounds or fee simple ground during the closed season (§ 3) on the Seaside of Eastern Shore without first obtaining a permit from the Marine Resources Commission.

C. Applicants for the permit shall have paid all rent fees and shall specify the location of the lease of fee simple ground to be harvested and shall verify that the ground is properly marked as specified by VR 450-01-0038.

D. No person shall hold more than two permits at any time.

## § 8. Seed oyster planting procedures.

A. The marine patrol officer at the point of seed harvest may require that an officer be present during the seed planting. When this is required, it will be specified on the seed transfer permit. If an officer is required to be present at planting, the planter shall notify the law-enforcement officer in the area prior to planting. It shall be unlawful for the permittee or planter to plant the oysters without a marine patrol officer being present.

B. The planting of seed oysters shall consist of spreading the oysters loosely on the bottom of the planting area. It shall be unlawful to plant seed oysters in any manner except by planting the oysters loosely on the bottom.

## § 9. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor and a second or subsequent violation of any provision of the regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor. In addition to the penalties prescribed by law, any person violating the provisions of this regulation shall return all oysters harvested to the water, shall cease harvesting on that day, and all harvesting apparatus shall be subject to seizure.

/s/ William A. Pruitt  
Commissioner

VA.R. Doc. No. R95-413; Filed April 5, 1995, 10:29 a.m.

## FINAL REGULATIONS

**NOTICE:** The Marine Resources Commission is exempted from the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia); however, it is required by § 9-6.14:22 B to publish all final regulations.

**Title of Regulation:** VR 450-01-0050. Pertaining to Grey Trout (Weakfish).

**Statutory Authority:** § 28.2-201 of the Code of Virginia.

**Effective Date:** April 4, 1995.

### Preamble:

*This regulation establishes limitations on the commercial and recreational harvest of grey trout in order to reduce the fishing mortality rate and to rebuild the severely depleted stock of grey trout. The limitations include minimum size limits, gear restrictions and season limits for the commercial fishery and minimum size and possession limits for the recreational fishery. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia. This regulation amends previous VR 450-01-0050 which was adopted by the Marine Resources Commission and made effective December 1, 1994. The effective date of this regulation is April 4, 1995.*

**Agency Contact:** Deborah R. McCalester, Marine Resources Commission, P.O. Box 756, Newport News, VA 23606, telephone (804) 247-2248.

VR 450-01-0050. Pertaining to Grey Trout.

### § 1. Purpose.

The purpose of this regulation is to achieve a 25% at least a 33% reduction in the weakfish grey trout fishing mortality rate during the April 1, 1994 1995, through March 31, 1995 1996, period, thereby reducing the probability of recruitment failure and stock collapse and to allow for a rebuilding of the spawning stock. This regulation responds is designed to the mandatory requirements of the Atlantic Coastal Fisheries Cooperative Management Act (Public Law 103-206), in accordance with the Interstate Weakfish Fishery Management Plan of the Atlantic States Marine Fisheries Commission be consistent with federal and interstate management measures.

### § 2. Definition Definitions.

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise.

"Closed season" means an interval of time, in days, when it shall be unlawful to possess grey trout.

"Weakfish (Grey Trout)" shall include any fish "Grey trout" means any fish of the species *Cynoscion regalis*.

### § 3. Minimum size limits.

A. It shall be unlawful for any person fishing with pound net or haul seine to possess any grey trout less than nine inches in length. For any person fishing with pound net or haul seine there shall be no minimum size limit on grey trout.

B. It shall be unlawful for any person fishing with gill nets to possess any grey trout less than 12 inches in length.

C. It shall be unlawful for any trawl boat to land any grey trout in Virginia that are less than 12 inches in length.

D. It shall be unlawful for any person fishing with hook-and-line, rod-and-reel, or hand line to possess any grey trout less than 14 12 inches in length.

E. It shall be unlawful for any person using any gear type not specified in subsection A, B, C or D of this section to possess any grey trout less than nine inches in length.

F. Length is measured in a straight line from the tip of the nose to the tip of the tail.

### § 4. Gear restrictions.

It shall be unlawful for any trawl boat to land grey trout in Virginia while possessing on board any trawl net having a cod-end mesh less than three inches, stretched measure.

### § 5. Commercial fishing season.

A. It shall be unlawful for any person fishing with pound net to possess any grey trout from August 28 through October 31, 1994, during the closed seasons of May 1 through May 22, 1995, and September 13, 1995, through March 31, 1996, except as provided in subsection subsections B and D of this section.

B. Any pound net fisherman who held 2, or 3 or 4 pound net licenses as of July 31 August 5, 1994, and forfeits one of those licenses shall be eligible to possess grey trout during the August 28 through October 31, 1994, period. closed season as established in subsection A of this section. Any pound net fisherman who held 4, 5, or 6 or 7 pound net licenses as of July 31 August 5, 1994, and forfeits two of those licenses shall be eligible to possess grey trout during the August 28 through October 31, 1994, period. closed season established in subsection A of this section. Any pound net fisherman who held 7, 8, or 9 or 10 pound net licenses as of July 31, August 5, 1994, and forfeits three of those licenses shall be eligible to possess grey trout during the August 28 through October 31, 1994, period. In addition, any pound net fisherman who holds licenses purchased after July 31, 1994, must forfeit all such licenses in order to possess grey trout during the August 28 through October 31, 1994, period. Forfeiture shall be through March 31, 1995 closed season as established in subsection A of this section. Forfeiture shall be through March 31, 1996.

C. Any pound net licensee who forfeits licenses a license pursuant to subsection B of this section shall retain his priority rights to such locations for future licensing until April 1, 1995 1996. Any pound net fisherman holding a license as of July 31, 1994, may transfer the right to use that license to a person who held only one pound net license as of July 31, 1994.

D. It shall be unlawful for any person fishing with gill net to possess any grey trout from August 1 through October 18, 1994, and December 9, 1994, through March 31, 1995. Those pound net licensees who hold multiple gear licenses and satisfy the requirement of subsection A or B of this section may transfer an unused license to a licensee who holds a single pound net license.

# Marine Resources Commission

~~E. It shall be unlawful for any person fishing with haul seine to possess any grey trout from August 25, 1994, through March 31, 1995. The closed seasons on grey trout harvested by gill net shall be May 14 through October 14, 1995, and December 18, 1995, through March 31, 1996.~~

~~F. It shall be unlawful for any trawl boat to land any grey trout in Virginia from October 12 through November 30, 1994. The closed seasons on grey trout harvested by haul seine shall be April 1 through April 15, 1995; June 11 through August 20, 1995; and September 20, 1995, through March 31, 1996.~~

~~G. The provisions of subsection D of this section notwithstanding, persons fishing with gill nets on the seaside of Accomack and Northampton Counties may possess grey trout from December 9, 1994, through December 15, 1994. The closed season on landing grey trout harvested by trawl shall be September 26 through December 31, 1995.~~

~~Pursuant to § 28.2-210 of the Code of Virginia, the provisions of this subsection were approved by the Marine Resources Commission as an emergency regulation on November 22, 1994, and are effective immediately for a period of 30 days.~~

## § 6. Daily bag Possession limit.

~~A. It shall be unlawful for any person fishing with hook-and-line, rod-and-reel, or hand line to possess more than 40 four grey trout. When fishing from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by four. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any grey trout taken after the bag limit of 10 fish possession limit has been reached shall be returned to the water immediately.~~

~~B. The daily bag limit of grey trout when fishing from a boat shall be equal to the number of legally eligible persons on board multiplied by 10.~~

~~C. Charter, party and head boat captains are ultimately responsible for the retention of the legal number of grey trout aboard their vessels.~~

## § 7. Penalty.

~~As set forth in § 28.2-903 of the Code of Virginia, any person, firm or corporation violating any provision of this regulation shall be guilty of a Class 3 misdemeanor and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.~~

/s/ William A. Pruitt  
Commissioner

VA.R. Doc. No. R95-411; Filed April 4, 1995, 2:26 p.m.

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Title of Regulation: VR 450-01-0095. Restrictions on Oyster Harvest in Virginia.

Statutory Authority: §§ 28.2-201 and 28.2-507 of the Code of Virginia.

Effective Date: April 4, 1995.

## Preamble:

*This regulation establishes standing stock criteria by which public oyster grounds may be closed and sets time of closure and other restrictions on the harvest of oysters from all public oyster grounds in the Chesapeake Bay and its tributaries and on all oyster grounds on the seaside of Eastern Shore. This regulation is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-507 of the Code of Virginia. This regulation amends and readopts previous VR 450-01-0095 that was adopted on December 20, 1994, and was effective on December 27, 1994, and rescinds previous VR 450-01-0086 that was adopted on February 23, 1993, and was effective on March 1, 1993, and amends and reenacts only the provisions of § 3, Standing Stock Criteria, in this regulation. The effective date of this regulation is April 4, 1995.*

Agency Contact: Deborah R. McCalester, Marine Resources Commission, P.O. Box 756, Newport News, VA 23606, telephone (804) 247-2248.

VR 450-01-0095. Restrictions on Oyster Harvest in Virginia.

## § 1. Purpose.

The purpose of this regulation is to establish standing stock criteria for closure of public oyster grounds, promote preservation of broodstock, and protect and conserve Virginia's oyster resource, which has been depleted by disease, harvesting, and natural disasters.

## § 2. Rescission.

VR 450-01-0086 is rescinded and only the provisions of § 3 of that regulation are amended and reenacted in § 3 of this regulation.

## § 3. Standing stock criteria.

Any public oyster ground, rock or shoal may be closed to harvest by the Commissioner of Marine Resources when it is determined by the Oyster Replenishment Office that 50% of the standing stock of market oysters has been harvested. The initial estimate of standing stock for each area shall be the volume of market oysters as of October 1 of each year as determined by the Oyster Replenishment Officer.

## § 2- 4. Open season and areas.

The lawful seasons and areas for the harvest of oysters from the public oyster rocks, beds and shoals are as follows:

1. James River Seed Area: October 1, 1994, through April 30, 1995.
2. Jail Island and Point of Shoals Clean Cull Areas: October 1, 1994, through April 30, 1995.
3. Seaside of Eastern Shore: October 1, 1994, through December 31, 1994. Seed harvest shall require a permit from the commission as set forth in § 7 9 of this regulation.

**§ 3- 5. Closed harvest season and areas.**

It shall be unlawful for any person to harvest oysters from the following areas during the specified periods:

1. All public oyster grounds in the Chesapeake Bay and its tributaries, including the tributaries of the Potomac River, except the James River Seed Area and the Jail Island and Point of Shoals Clean Cull Areas: October 1, 1994, through September 30, 1995.
2. James River Seed Area and Jail Island and Point of Shoals Clean Cull Areas: May 1, 1995, through September 30, 1995.
3. All oyster grounds on the Seaside of Eastern Shore: January 1, 1995, through September 30, 1995. Oyster harvest from leased oyster ground and fee simple oyster ground shall require a permit from the commission as set forth in § 7 9 of this regulation.

**§ 4- 6. Time limit.**

Harvest on public grounds in the James River Seed Area and the Jail Island and Point of Shoals Clean Cull Areas shall be from sunrise to noon, daily, except during the months of January and February when it shall be from sunrise to 2 p.m., daily. It shall be unlawful for any person to harvest oysters from the public grounds in the James River Seed Area or the Jail Island and Point of Shoals Clean Cull Areas prior to sunrise or after noon, daily, or after 2 p.m., daily, during the months of January and February, 1995.

**§ 5- 7. Gear restrictions.**

It shall be unlawful for any person to harvest oysters from public oyster grounds with shaft tongs longer than 18 feet in total overall length.

**§ 6- 8. Quotas.**

In the James River Seed Areas there shall be an oyster harvest quota of 80,000 bushels of seed oysters. It shall be unlawful for any person to harvest seed oysters from the James River Seed Area after the 80,000 bushel quota has been reached.

**§ 7- 9. Harvest permit required.**

A. It shall be unlawful for any person to harvest or attempt to harvest seed oysters from the public oyster grounds, leased oyster grounds, or ~~for~~ from fee simple grounds on the Seaside of Eastern Shore during the open season (§ 2 4) without first obtaining a permit from the Marine Resources Commission.

B. It shall be unlawful for any person to harvest, or attempt to harvest, oysters from leased oyster grounds or fee simple ground during the closed season (§ 3 5) on the Seaside of Eastern Shore without first obtaining a permit from the Marine Resources Commission.

C. Applicants for the permit shall have paid all rent fees and shall specify the location of the lease of fee simple ground to be harvested and shall verify that the ground is properly marked as specified by VR 450-01-0038.

D. No person shall hold more than two permits at any time.

**§ 8- 10. Seed oyster planting procedures.**

A. The marine patrol officer at the point of seed harvest may require that an officer be present during the seed planting. When this is required, it will be specified on the seed transfer permit. If an officer is required to be present at planting, the planter shall notify the law-enforcement officer in the area prior to planting. It shall be unlawful for the permittee or planter to plant the oysters without a marine patrol officer being present.

B. The planting of seed oysters shall consist of spreading the oysters loosely on the bottom of the planting area. It shall be unlawful to plant seed oysters in any manner except by planting the oysters loosely on the bottom.

**§ 9- 11. Penalty.**

A. As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor and a second or subsequent violation of any provision of the regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

B. In addition to the penalties prescribed by law, any person violating the provisions of this regulation shall return all oysters harvested to the water, shall cease harvesting on that day, and all harvesting apparatus shall be subject to seizure.

/s/ William A. Pruitt  
Commissioner

VA.R. Doc. No. R95-412; Filed April 4, 1995, 2:27 p.m.



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# GOVERNOR

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## GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

### DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-28-300. Regulations for the  
Immunization of School Children.

#### Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen

Governor

Date: November 4, 1994

VA.R. Doc. No. R95-422; Filed November 9, 1994, 11:06 a.m.

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# GENERAL NOTICES/ERRATA

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## Symbol Key †

† Indicates entries since last publication of the *Virginia Register*

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## GENERAL NOTICES

### DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

#### † Regional Consortium Initiative for Homeownership and Private Sector Partnerships in Affordable Housing

##### EXTENSION OF DEADLINE

Pursuant to the Notice of Funding Availability issues on February 26, 1995, by the Department of Housing and Community Development entitled "Regional Consortia Initiative for Homeownership and Private Sector Partnerships in Affordable Housing," the application deadline for submission of proposals has been extended to May 31, 1995. A Question and Answer document put forth by the department in response to questions asked during "How-to-Apply" workshops held throughout the state is available upon request.

**Contact:** Vivian L. Carnegie, Department of Housing and Community Development, The Jackson Center, 501 N. Second St., Richmond, VA 23219-1321, telephone (804) 371-7123 or FAX (804) 371-7091.

### VIRGINIA CODE COMMISSION

#### Notice to State Agencies

**Mailing Address:** Our mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: (804) 692-0625.

#### Forms for Filing Material on Dates for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material and dates for publication in *The Virginia Register of Regulations*. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

#### FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01  
NOTICE of COMMENT PERIOD - RR02  
PROPOSED (Transmittal Sheet) - RR03  
FINAL (Transmittal Sheet) - RR04  
EMERGENCY (Transmittal Sheet) - RR05  
NOTICE of MEETING - RR06  
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS -  
RR08

## ERRATA

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: VR 460-01-86. Hospital Credit Balance Reporting.

Publication: 10:22 VA.R. 5553-5554 July 25, 1994.

#### Correction to Final Regulation:

Page 5553, title, change "VR 460-01-86" to "VR 460-01-85.1"

Page 5554, paragraph 6, change "VR 460-01-86" to "VR 460-01-85.1"

# CALENDAR OF EVENTS

## Symbol Key

† Indicates entries since last publication of the *Virginia Register*

♿ Location accessible to handicapped

☎ Telecommunications Device for Deaf (TDD)/Voice Designation

## NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

## EXECUTIVE

### BOARD FOR ACCOUNTANCY

**June 16, 1995** -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Accountancy intends to amend regulations entitled: **VR 105-01-2. Board for Accountancy Regulations**. The purpose of the proposed amendments is to reduce current educational requirements and eliminate the provision for specific coursework requirements.

Statutory Authority: §§ 54.1-201 and 54.1-2002 of the Code of Virginia.

**Contact:** Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Virginia Aquaculture Advisory Board

† **May 12, 1995 - 9:30 a.m.** -- Open Meeting  
Virginia Institute of Marine Science, Director's Conference Room, Gloucester Point, Virginia.♿

The board will meet in regular session to discuss issues related to the Virginia aquaculture industry. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact T. Robins Buck at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** T. Robins Buck, Secretary, Virginia Aquaculture Advisory Board, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23209, telephone (804) 371-6094.

#### Virginia Horse Industry Board

**May 16, 1995 - 11 a.m.** -- CANCELLED

Virginia Cooperative Extension, Charlottesville-Albemarle Unit, 168 Spotnap Road, Lower Level Meeting Room, Charlottesville, Virginia.♿

The board meeting has been cancelled.

**Contact:** Andrea S. Heid, Equine Marketing Specialist, Department of Agriculture and Consumer Services, 1100 Bank St., #906, Richmond, VA 23219, telephone (804) 786-5842 or (804) 371-6344/TDD☎

† **June 6, 1995 - 10 a.m.** -- Open Meeting

† **July 11, 1995 - 10 a.m.** -- Open Meeting

Virginia Cooperative Extension, Charlottesville-Albemarle Unit, 168 Spotnap Road, Lower Level Meeting Room, Charlottesville, Virginia.♿

The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Andrea S. Heid, Equine Marketing Specialist, Department of Agriculture and Consumer Services, 1100 Bank St., #906, Richmond, VA 23219, telephone (804) 786-5842 or (804) 371-6344/TDD☎

#### Virginia Irish Potato Board

† **May 9, 1995 - 8 p.m.** -- Open Meeting

Eastern Shore Agricultural Research and Extension Center, 33446 Research Drive, Painter, Virginia.♿

The board will meet to discuss programs including promotion, research and education; the board will also discuss the annual budget and other business that may come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

any accommodations in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** J. William Mapp, Program Director, Virginia Irish Potato Board, P.O. Box 26, Onley, VA 23418, telephone (804) 787-5867.

### Virginia Seed Potato Board

**May 8, 1995 - 8 a.m. -- Open Meeting**

Eastern Shore Agricultural Research and Extension Center, 33446 Research Drive, Painter, Virginia. ☎

The board will meet to discuss the 1995 seed potato season and other business. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** J. William Mapp, Program Director, Virginia Seed Potato Board, P.O. Box 26, Onley, VA 23418, telephone (804) 787-5867.

### ALCOHOLIC BEVERAGE CONTROL BOARD

**May 1, 1995 - 9:30 a.m. -- Open Meeting**

**May 31, 1995 - 9:30 a.m. -- Open Meeting**

**June 12, 1995 - 9:30 a.m. -- Open Meeting**

**June 26, 1995 - 9:30 a.m. -- Open Meeting**

Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ☎

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

**Contact:** W. Curtis Coleburn, Secretary to the Board, Alcoholic Beverage Control Board, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0712 or FAX (804) 367-1802.

### BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

**May 2, 1995 - 10 a.m. -- Open Meeting**

Mason Governmental Center, 6507 Columbia Pike, Annandale, Virginia. ☎

A meeting to conduct a formal hearing in regard to APELSLA Board v. Robert Andrew Crowley. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-8500. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodations

at least two weeks in advance for consideration of your request.

**Contact:** Carol A. Mitchell, Assistant Director, Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524.

### Board for Architects

**† May 3, 1995 - 9 a.m. -- Open Meeting**

**May 26, 1995 - 9 a.m. -- Open Meeting**

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-8514 at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

### ASAP POLICY BOARD - VALLEY

**† May 8, 1995 - 8:30 a.m. -- Open Meeting**

Augusta County School Board Office, Fishersville, Virginia. ☎

A regular meeting of the local policy board which conducts business pertaining to the following: (i) court referrals; (ii) financial report; (iii) director's report; and (iv) statistical reports.

**Contact:** Rhoda G. York, Executive Director, Holiday Court, Suite B, Staunton, VA 24401, telephone (703) 886-5616 or (703) 943-4405 (Waynesboro number).

### BOARD FOR ASBESTOS LICENSING AND LEAD CERTIFICATION

**May 18, 1995 - 10 a.m. -- Open Meeting**

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Conference Room 4 A and B, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct board business and to hold a public hearing in accordance with Executive Order 15(94).

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

**May 18, 1995 - 11 a.m. -- Public Hearing**

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Conference Room 4 A and B, Richmond, Virginia.

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## Calendar of Events

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The Department of Professional and Occupational Regulation, pursuant to Executive Order 15(94), is proposing to undertake a comprehensive review of the regulations of the Board for Asbestos Licensing and Lead Certification. As a part of this process, public input and comments are being solicited; comments may be provided from April 3, 1995, to June 5, 1995, to the administrator of the program, David E. Dick, at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia 23230. The department's goal in accordance with the executive order is to ensure that the regulations achieve the least possible interference in private enterprise while still protecting the public health, safety and welfare and are written clearly so that they may be used and implemented by all those who interact with a regulatory process.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595.

### BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

**May 4, 1995 - 9:30 a.m. -- Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia.

A general board meeting to discuss business. Public comment will be received for 15 minutes at the beginning of the meeting.

**Contact:** Lisa Russell Hahn, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

### BOARD FOR BARBERS

**June 5, 1995 - 9 a.m. -- Open Meeting**  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-0500. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodations at least two weeks in advance for consideration of your request.

**Contact:** Karen W. O'Neal, Assistant Director, Board for Barbers, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

### BOARD FOR BRANCH PILOTS

**May 4, 1995 - 9:30 a.m. -- Open Meeting**  
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. ☎

A regularly scheduled board meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

### STATE CERTIFIED SEED BOARD

**May 16, 1995 - 8:30 p.m. -- Open Meeting**  
Sheraton Inn Richmond Airport, Richmond, Virginia. ☎

A meeting to report on program activities and review certification standards. Public comment will be received.

**Contact:** Dr. John R. Hall, III, Chairman, Virginia Tech, 330 Smyth Hall, CSES Dept., Blacksburg, VA 24061, telephone (703) 231-9775 or FAX (703) 231-3431.

### CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

#### Central Area Review Committee

**May 4, 1995 - 2 p.m. -- Open Meeting**  
**June 1, 1995 - 2 p.m. -- Open Meeting**  
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The review committee will review Chesapeake Bay Preservation Area programs for the central area. Persons interested in observing should call the department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting; however, written comments are welcome.

**Contact:** Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

#### Northern Area Review Committee

**May 3, 1995 - 10 a.m. -- Open Meeting**  
**June 7, 1995 - 10 a.m. -- Open Meeting**  
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The review committee will review Chesapeake Bay Preservation Area programs for the northern area. Persons interested in observing should call the department to verify meeting time, location and schedule.

No comments from the public will be entertained at the meeting; however, written comments are welcome.

**Contact:** Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

### Southern Area Review Committee

**May 4, 1995 - 10 a.m.** -- Open Meeting

**June 1, 1995 - 10 a.m.** -- Open Meeting

Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The review committee will review Chesapeake Bay Preservation Area programs for the southern area. Persons interested in observing should call the department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting; however, written comments are welcome.

**Contact:** Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

### STATE BOARD FOR COMMUNITY COLLEGES

† **May 17, 1995 - 2:30 p.m.** -- Open Meeting

Tidewater Community College, Portsmouth Campus, 7000 College Drive, Portsmouth, Virginia.

State board committee meetings.

**Contact:** Dr. Joy S. Graham, Assistant Chancellor, Public Affairs, State Board for Community Colleges, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126, FAX (804) 371-0085 or (804) 371-8504/TDD ☎

† **May 18, 1995 - 10 a.m.** -- Open Meeting

Omni Waterside Hotel, 777 Waterside Drive, Norfolk, Virginia.

A regularly scheduled state board meeting.

**Contact:** Dr. Joy S. Graham, Assistant Chancellor, Public Affairs, State Board for Community Colleges, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126, FAX (804) 371-0085 or (804) 371-8504/TDD ☎

### COMPENSATION BOARD

**May 25, 1995 - 1 p.m.** -- Open Meeting

Ninth Street Office Building, 202 North Ninth Street, Room 913/913A, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A routine meeting to conduct business of the board.

**Contact:** Bruce W. Haynes, Executive Secretary, Compensation Board, P.O. Box 710, Richmond, VA 23206-0686, telephone (804) 786-3886, FAX (804) 371-0235 or (804) 786-3886/TDD ☎

### DEPARTMENT OF CONSERVATION AND RECREATION

#### Board of Conservation and Recreation

**May 2, 1995 - 10 a.m.** -- Open Meeting

False Cape State Park, Wash Woods Center, 4001 Sandpiper Road, Virginia Beach, Virginia.

A meeting of the board.

**Contact:** Darlene Worley, Executive Secretary, 203 Governor St., Richmond, VA 23219-2010, telephone (804) 786-6124 or (804) 786-2121/TDD ☎

#### Rivanna Scenic River Advisory Board

**May 1, 1995 - 7 p.m.** -- Open Meeting

Albemarle County Courthouse, 401 McIntire Road, Room 5, Charlottesville, Virginia.

A meeting to review river issues and programs.

**Contact:** Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

### BOARD FOR CONTRACTORS

**May 3, 1995 - 9 a.m.** -- Open Meeting

**May 4, 1995 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct informal fact-finding conferences pursuant to the Administrative Process Act in order for the board to determine case decisions for contractors.

**Contact:** Earlyne B. Perkins, Legal Assistant, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-0946.

#### Recovery Fund Committee

**June 28, 1995 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to consider claims filed against the Virginia Contractor Transaction Recovery Fund. This meeting will be open to the public; however, a portion of the discussion may be conducted in executive session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Holly Erickson. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodations at least two weeks in advance for consideration of your request.

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## Calendar of Events

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**Contact:** Holly Erickson, Assistant Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8561.

### DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

† **May 17, 1995 - 10 a.m.** -- Open Meeting  
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☎

A meeting to discuss matters as may be presented to the board.

**Contact:** Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

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**May 20, 1995** -- Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Corrections intends to amend regulations entitled: **VR 230-30-001. Minimum Standards for Jails and Lockups.** The purpose of the proposed amendments is to alter the requirements for administration and programs in jails and lockups, and is based on a board committee review of the implementation and application of the standards. In summary, the changes are directed toward: offering more flexibility in terms of population management; strengthening requirements where inmate supervision and general safety is a concern; rearranging portions of the standards to enhance clarity, organization, and consistency among standards; responding to Code of Virginia changes from the 1994 General Assembly; and incorporating recommendations from a recent Joint Legislative Audit and Review Commission study.

Statutory Authority: §§ 53.1-5, 53.1-68, 53.1-131 and 53.1-133.01 of the Code of Virginia.

**Contact:** Amy Miller, Regulatory Coordinator, Department of Corrections, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3119.

### Administration Committee

† **May 17, 1995 - 8:30 a.m.** -- Open Meeting  
Department of Corrections, 6900 Atmore Drive, Richmond, Virginia. ☎

A meeting to discuss administrative matters as may be presented to the full board.

**Contact:** Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

### Correctional Services Committee

† **May 16, 1995 - 1 p.m.** -- Open Meeting  
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☎

A meeting to discuss correctional services matters as may be presented to the full board.

**Contact:** Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

### BOARD FOR COSMETOLOGY

**June 12, 1995 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance.

**Contact:** Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

### DEPARTMENT OF CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES BOARD)

**May 3, 1995 - 9 a.m.** -- Public Hearing  
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **VR 240-03-2. Regulations Relating to Private Security Services.** The proposed amendments to the regulations incorporate 1994 legislative changes to the Code of Virginia affecting private security services. House Bill 393 required the Criminal Justice Services Board to establish a regulation for the registration of a personal protection specialist (bodyguard) by July 1, 1995. Similarly, House Bill 395 required the board to promulgate a regulation for the licensure of electronic security businesses and the registration of such electronic security business employees as an "alarm respondent," "central station dispatcher," "electronic security sales representative," or "electronic security technician." As a result, the board must amend its private security services regulations to reflect these mandates.

Statutory Authority: § 9-182 of the Code of Virginia.

Public comments may be submitted through April 21, 1995, to Lex T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

**Contact:** Leon D. Baker, Jr., Chief, Private Security Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4700.

### DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

#### Advisory Board

##### NOTE: CHANGE IN MEETING DATE

† May 10, 1995 - 10 a.m. -- Open Meeting  
Department for the Deaf and Hard-of-Hearing, Washington Building, 1100 Bank Street, 12th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular quarterly business meeting. Public comment will be received with advance notice.

**Contact:** Gloria L. Cathcart, Human Service Program Specialist, Department for the Deaf and Hard-of-Hearing, Washington Bldg., 1100 Bank St., 12th Floor, Richmond, VA 23219, telephone (804) 371-7892 (V/TTY), toll-free 1-800-552-7917 (V/TTY) or FAX (804) 371-7882.

### BOARD OF DENTISTRY

May 4, 1995 - 9 a.m. -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. (Interpreter for the deaf provided upon request)

Informal conferences and formal hearings. No public comment will be taken.

**Contact:** Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9902 or (804) 662-7197/TDD

May 5 1995 - 9 a.m. -- Open Meeting

May 6, 1995 - 9 a.m.-- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2 Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review board orders and reports from the following committees: Legislative/Regulatory (discuss regulations), Continuing Education, Examination, and Advertising and Budget. This is a public meeting. A 20-minute public comment period will be held at 9:10 a.m. on the first day of board business; however, no other public comment will be taken. If hearings are cancelled then board business will begin on May 4, 1995.

**Contact:** Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9902 or (804) 662-7197/TDD

### BOARD OF EDUCATION

† May 25, 1995 -- Open Meeting

† June 22, 1995 -- Open Meeting

General Assembly Building, 910 Capitol Square, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The Board of Education and the Board of Vocational Education will hold a regularly scheduled meetings. Business will be conducted according to items listed on the agenda. The agenda is available upon request.

**Contact:** James E. Laws, Jr., Administrative Assistant for Board Relations, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2024 or toll-free 1-800-292-3820.

### DEPARTMENT OF ENVIRONMENTAL QUALITY

May 10, 1995 - 9 a.m. -- Open Meeting

Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia.

A meeting of the Waste Panel. This meeting is designed to define, assess and make recommendations for improvements in the Department of Environmental Quality's permitting process in the waste program. This meeting date is subject to change. Please contact Hassan Vakili for possible changes in meeting date or additional information.

**Contact:** Hassan Vakili, Director, Waste Division, Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Rd., Glen Allen, VA 23230, telephone (804) 527-5190 or FAX (804) 527-5141.

May 10, 1995 - 10 a.m. -- Open Meeting

Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia.

A meeting of the Water Permit Panel. This meeting is designed to define, assess and make recommendations for improvements in the Department of Environmental Quality's permitting process in the water program. This meeting date is subject to change. Please contact James Adams for possible changes in meeting date or additional information.

**Contact:** James Adams, Director, Water Division, Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Rd., Glen Allen, VA 23230, telephone (804) 762-4050 or FAX (804) 762-4032.

##### NOTE: CHANGE IN MEETING DATE

May 11, 1995 - 10 a.m. -- Open Meeting

Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia.

A meeting of the Air Permit Panel. This meeting is designed to define, assess and make recommendations for improvements in the Department of Environmental Quality's permitting process in the air program. This meeting date is subject to change. Please contact John Daniel for possible changes in meeting date or additional information.



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## Calendar of Events

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**Contact:** John Daniel, Director, Air Division, Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Rd., Glen Allen, VA 23230, telephone (804) 762-4311 or FAX (804) 762-4501.

**June 14, 1995 - 9 a.m. -- Open Meeting**

**July 19, 1995 - 9 a.m. -- Open Meeting**

Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia.

A meeting of the joint panel. This meeting is designed to define, assess and make recommendations in more closely aligning the Department of Environmental Quality's air, water and waste permitting procedures. This meeting date is subject to change. Please contact Kim Anderson for possible changes in meeting date or additional information.

**Contact:** Kim Anderson, Administrative Staff Assistant, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4020, FAX (804) 762-4019 or (804) 762-4021/TDD ☎

### Cost-Benefit Analysis Work Group

**† May 10, 1995 - 10 a.m. -- Open Meeting**

Department of Environmental Quality, 629 East Main Street, 10th Floor Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The first meeting of the Cost-Benefit Analysis Work Group. The work group will be assisting the agency in developing a process for conducting cost-benefit analyses for each of its regulations.

**Contact:** Michael P. Murphy, Director, Grants Management, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4003, FAX (804) 762-4019, toll-free 1-800-592-5482 or (804) 762-4021/TDD ☎

### FAMILY AND CHILDREN'S TRUST FUND

**May 19, 1995 - 9 a.m. -- Open Meeting**

730 East Broad Street, 8th Floor Board Room, Richmond, Virginia. ♿

An annual meeting to elect officers.

**Contact:** Jan Girardi, Development Director, Family and Children's Trust Fund, 730 E. Broad St., 8th Floor, Richmond, VA 23219, telephone (804) 692-1826 or FAX (804) 692-1808.

### BOARD OF FORESTRY

**† May 4, 1995 - 8 a.m. -- Open Meeting**

Holiday Inn, 551 Highway 58E, Norton, Virginia. ♿

A general business meeting.

**Contact:** Barbara A. Worrell, Administrative Staff Specialist, Department of Forestry, P.O. Box 3758, Charlottesville, VA

22903-0758, telephone (804) 977-6555, FAX (804) 296-2369 or (804) 977-6555/TDD ☎

### BOARD OF FUNERAL DIRECTORS AND EMBALMERS

**May 2, 1995 - 9 a.m. -- Open Meeting**

Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia.

A general board meeting to discuss board business. Public comment will be received for 15 minutes at the beginning of the meeting. A routine Executive Committee meeting will follow adjournment of the board meeting.

**Contact:** Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

### Legislative Committee

**May 1, 1995 - 3 p.m. -- Open Meeting**

Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia.

A meeting to continue review of existing law and regulations governing the funeral industry.

**Contact:** Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

### BOARD OF GAME AND INLAND FISHERIES

**† May 3, 1995 - 4 p.m. -- Open Meeting**

King and Queen Fish Cultural Station, Stevensville, Virginia. ♿

The board will visit the Department of Game and Inland Fisheries' King and Queen Fish Cultural Station (fish hatchery) at Stevensville in King and Queen County, Virginia, for the purpose of touring the facility. The hatchery tour is open to the public.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23226, telephone (804) 367-8341 or FAX (804) 367-2427

#### NOTE: CHANGE IN MEETING TIME

**May 4, 1995 - 9 a.m. -- Open Meeting**

**May 5, 1995 - 9 a.m. -- Open Meeting**

Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to consider wildlife regulations to be effective July 1995 through June 1997. The board will determine whether any of the wildlife regulations proposed at its March 16 and 17, 1995, board meeting will be adopted as final regulations, including those that were proposed to remain the same.

The board intends, based upon public input received at a series of statewide meetings, to adopt changes governing seasons, bag limits, and methods of take and possession of wildlife. All of the board's wildlife regulations are open for consideration. The board reserves the right to expand or restrict the regulations proposed at its March 16 and 17, 1995, meeting, as necessary for the proper management of fish and wildlife resources, and to amend any other wildlife regulations proposed to remain the same at the March board meeting. These changes may be more liberal than, or more stringent than the regulations currently listed or those amendments proposed at the March 16 and 17, 1995, meeting.

In addition, general and administrative issues may be discussed by the board. The board may hold an executive session during this meeting, and committee chairmen of board committees may request committee meetings in conjunction with this meeting or thereafter.

The Board of Game and Inland Fisheries' meeting procedure is to solicit public comment at this meeting on May 4, 1995. If the board completes its agenda, it will not convene a meeting on May 5.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., P.O. Box 11104, Richmond, VA 23230, telephone (804) 786-8341 or FAX (804) 367-2427.

### GEORGE MASON UNIVERSITY

#### Student Affairs Committee

**May 16, 1995 - 6:30 p.m. -- Open Meeting**  
George Mason University, Fairfax Campus, Mason Hall, Fairfax, Virginia. ☎

A business meeting.

**Contact:** Ann Wingblade, Administrative Assistant, or Rita Lewis, Administrative Staff Assistant, Office of the President, George Mason University, Fairfax, VA 22030-4444, telephone (703) 993-8701.

#### Board of Visitors

**May 17, 1995 - 3:30 p.m. -- Open Meeting**  
George Mason University, Fairfax Campus, Mason Hall, Fairfax, Virginia. ☎

A regular meeting of the Board of Visitors, whereby the board will hear reports of the standing committees of the board, and act on those recommendations presented by the standing committees. An agenda will be available seven days prior to the meeting for those individuals or organizations who request it.

**Contact:** Ann Wingblade, Administrative Assistant, or Rita Lewis, Administrative Staff Assistant, Office of the President, George Mason University, Fairfax, VA 22030-4444, telephone (703) 993-8701.

### DEPARTMENT OF HEALTH (STATE BOARD OF)

**June 3, 1995 --** Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **VR 355-18-000. Waterworks Regulations (R-Phase II, IIB and V).** The Virginia Department of Health is the delegated state agency for primary enforcement authority (primacy) for the federal Safe Drinking Water Act and must meet certain United States Environmental Protection Agency mandates to retain this authority. These proposed amendments to the existing Waterworks Regulations incorporate the federal Safe Drinking Water Act Phase II, IIB, and V Rules. These amendments consist of maximum contaminant levels, reporting, public notification, treatment technique and monitoring requirements for 13 new volatile organic chemicals, four revised and 24 new synthetic organic chemicals, three revised and nine new inorganic chemicals, and 11 new unregulated chemicals. These regulations follow the United States Environmental Protection Agency's standardized monitoring requirements with a nine-year compliance cycle broken into three three-year compliance periods. The monitoring requirements also define the locations and frequency with which the waterworks owners must comply. The amendments conform the state program to federal law and should avoid duplicative enforcement action by the United States Environmental Protection Agency under federal law.

Statutory Authority: §§ 32.1-12 and 32.1-170 of the Code of Virginia.

**Contact:** Monte J. Waugh, Technical Services Assistant, Division of Water Supply Engineering, Department of Health, 1500 East Main St., Room 109, Richmond, VA 23219, telephone (804) 371-2885 or FAX (804) 786-5567.

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**June 3, 1995 --** Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **VR 355-18-000. Waterworks Regulations (Lead and Copper).** The Virginia Department of Health is the delegated state agency for primary enforcement authority (primacy) for the federal Safe Drinking Water Act and must meet certain United States Environmental Protection Agency mandates to retain this authority. These proposed amendments to the existing Waterworks Regulations incorporate the federal Safe Drinking Water Act Lead and Copper Rule. These amendments consist of maximum contaminant levels, reporting, public notification, treatment technique and monitoring requirements for lead and copper. The amendments conform the state program to federal law and should avoid duplicative enforcement action by the United States Environmental Protection Agency under federal law.

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## Calendar of Events

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Statutory Authority: §§ 32.1-12 and 32.1-170 of the Code of Virginia.

**Contact:** Allen R. Hammer, P.E., Director, Division of Water Supply Engineering, Department of Health, 1500 East Main St., Room 109, Richmond, VA 23219, telephone (804) 371-2885 or FAX (804) 786-5567.

### Biosolids Use Regulations Advisory Committee

† May 11, 1995 - 10 a.m. -- Open Meeting

The UVA Richmond Center, 7740 Shrader Road, Suite E, Richmond, Virginia. ☎

A meeting to discuss issues concerning implementation of the Biosolids Use Regulations relating to land application, marketing, or distribution of biosolids.

**Contact:** C.M. Sawyer, Division Director, Department of Health, Office of Water Programs, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1755 or FAX (804) 786-5567.

### Commissioner's Waterworks Advisory Committee

† May 18, 1995 - 10 a.m. -- Open Meeting

Princess Anne Community Recreation Center, 1400 Ferrell Parkway, Virginia Beach, Virginia.

A general business meeting. The committee meets the third Thursday of odd months at various locations around the state.

**Contact:** Thomas B. Gray, P.E., Special Projects Manager, Division of Water Supply Engineering, Department of Health, 1500 East Main St., Room 109, Richmond, VA 23219, telephone (804) 786-5566.

## DEPARTMENT OF HEALTH PROFESSIONS

### Task Force on Unified Regulation of Psychologists

† May 5, 1995 - 10 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☎

A meeting to review statutory revisions which provide for psychologists being licensed under a single board. Public comment on this topic will be received at the beginning of the meeting.

**Contact:** Robert A. Nebiker, Deputy Director, Department of Health Professions, 6606 W. Broad St, 4th Floor, Richmond, VA 23230, telephone (804) 662-9904.

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† May 23, 1995 - 9:30 a.m. -- Open Meeting

Trigon Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ☎

A monthly meeting.

**Contact:** Kim Bolden Walker, Public Relations Coordinator, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

## BOARD FOR HEARING AID SPECIALISTS

May 8, 1995 - 8 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodations at least two weeks in advance.

**Contact:** Karen W. O'Neal, Assistant Director, Board for Hearing Aid Specialists, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

## STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† May 8, 1995 - 1 p.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, 9th Floor Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

State Council of Higher Education staff will discuss the proposed Domicile Guidelines and regulations for the following programs:

1. College Scholarship Assistance Program
2. Tuition Assistance Grant Program
3. Virginia Guaranteed Assistance Program
4. Virginia Guaranteed and Undergraduate Assistance Program
5. Virginia Scholars Program
6. Virginia Student Financial Assistance Program

Written comments will be accepted between April 17 and May 19, 1995.

**Contact:** Melissa A. Collum, Assistant Coordinator, Financial Aid Programs, State Council of Higher Education for Virginia, James Monroe Bldg, 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-0554, FAX (804) 225-2604 or (804) 371-8017/TDD ☎

May 9, 1995 - 9:30 a.m. -- Open Meeting

Old Dominion University, Norfolk, Virginia. (Interpreter for the deaf provided upon request)

June 13, 1995 - 9:30 a.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, 9th Floor, Council Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

**July 11, 1995 - 9:30 a.m. -- Open Meeting**

Northern Virginia Community College, Annandale Campus, Annandale, Virginia. (Interpreter for the deaf provided upon request)

A general business meeting. For additional information about the meeting or location please contact the council.

**Contact:** Anne M. Pratt, Associate Director, Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2632

## COMMISSION ON THE FUTURE OF HIGHER EDUCATION IN VIRGINIA

**May 10, 1995 - 10 a.m. -- Open Meeting****June 14, 1995 - 10 a.m. -- Open Meeting**

General Assembly Building, 910 Capitol Square, Speaker's Conference Room, 6th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss issues of interest to higher education in Virginia. For a more detailed agenda please contact the Council of Higher Education.

**Contact:** Anne M. Pratt, Associate Director, Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2629.

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

**May 2, 1995 - 9 a.m. -- Open Meeting****† June 6, 1995 - 9 a.m. -- Open Meeting****† July 11, 1995 - 9 a.m. -- Open Meeting**

Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee Meeting on emergency preparedness as required by SARA Title III.

**Contact:** Robert Brown, Emergency Services Coordinator, 300 North Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

**June 2, 1995 --** Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I, New Construction Code/1993.** The purpose of the proposed action is to amend the building code to provide for local option enforcement of acoustical treatment measures in the construction of residential buildings near airports.

Statutory Authority: § 36-99.10:1 of the Code of Virginia.

**Contact:** Norman R. Crumpton, Program Manager, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170.

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

**† May 16, 1995 - 11 a.m. -- Open Meeting**

Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia.

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; (iv) consider and, if appropriate, approve proposed amendments to the Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income and proposed new Rules and Regulations for Allocation of Low Income Housing and Tax Credits; and (v) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

**Contact:** J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

## LIBRARY BOARD

**May 1, 1995 - 9 a.m. -- Open Meeting****June 5, 1995 - 10:30 a.m. -- Open Meeting****June 6, 1995 - 10:30 a.m. -- Open Meeting**

Location to be announced.

A meeting to discuss administrative matters.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

## State Networking Users Advisory Board

**† May 9, 1995 - 10 a.m. -- Open Meeting**

Claude Moore Health Sciences Library, University of Virginia, Charlottesville, Virginia.

A meeting to discuss administrative matters.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

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## Calendar of Events

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### VLIN Task Force/Automation and Networking Committee

May 12, 1995 - 10 a.m. -- Open Meeting

June 1, 1995 - 10 a.m. -- Open Meeting

The Library of Virginia, 11th Street at Capitol Square, 3rd Floor, Supreme Court Room, Richmond, Virginia. 


A meeting to discuss strategic directions for the development of the Virginia Library and Information Network.

Contact: Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

### STATE COUNCIL ON LOCAL DEBT

May 17, 1995 - 11 a.m. -- Open Meeting

June 21, 1995 - 11 a.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. 

A regular meeting of the council, subject to cancellation unless there are action items requiring the council's consideration. Persons interested in attending should call one week prior to the meeting date to ascertain whether the meeting is to be held as scheduled.


Contact: Gary Ometer, Debt Manager, Department of the Treasury, P.O. Box 1879, Richmond, VA 23215, telephone (804) 225-4928.

### VIRGINIA MANUFACTURED HOUSING BOARD

May 10, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Manufactured Housing Board intends to amend regulations entitled: **VR 449-01-02. Manufactured Housing Licensing and Transaction Recovery Fund Regulations.** The proposed amendments to the regulations incorporate the legislative changes adopted by the 1994 General Assembly in House Bill 1172. The legislative amendments require retail manufactured home dealers and brokers located outside of the Commonwealth to be licensed by the Manufactured Housing Board if those dealers or brokers are selling homes to buyers in Virginia. House Bill 1172 amendments also add salespersons working for licensed brokers and manufacturers to the list of regulators that must be licensed and extend the coverage and protection of the recovery fund to persons other than the buyer of the home. The license fee schedule is being amended to reduce the license fees for smaller dealers and brokers as well as the renewal license fees for manufacturers. Several of the amendments, not required by the legislative action, are proposed for clarity of intent and to avoid unnecessary restrictions on regulators.

Statutory Authority: § 36-85.18 of the Code of Virginia.

Contact: Curtis L. McIver, Associate Director, Manufactured Housing Office, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160 or (804) 371-7089/TDD 

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

June 2, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **VR 460-04-8.7. Client Appeals Regulations.** The purpose of this proposal is to abolish the Medical Assistance Appeals Panel (MAAP) as is necessary for the efficient and economical operation of a government function and to comply with the order of the court.

42 CFR Part 431 Subpart E concerns fair hearings for applicants and recipients. This subpart implements § 1902(a)(3) of the Social Security Act (Act), which requires that a State Plan for Medical Assistance provide an opportunity for a fair hearing to any persons whose claim for assistance is denied or not acted upon promptly. This subpart also prescribes procedures for an opportunity for hearing if the Medicaid agency takes action to suspend, terminate, or reduce services. This subpart also implements §§ 1819(f)(3), 1919(f)(3), and 1919(e)(7)(F) of the Act by providing an appeals process for individuals proposed to be transferred or discharged from skilled nursing facilities and those adversely affected by the preadmission screening and annual resident review requirements of § 1919(e)(7) of the Act.

This section of the federal regulations establishes the requirements for a hearing system, recipient notice requirements which must be met by the agency, recipients' rights to hearings, procedures, hearing decisions, due process standards, and corrective actions. DMAS' current MAAP is not required by either federal or state law.

The present DMAS administrative appeals process involves two levels. If the client is dissatisfied with the local social services agency's decision denying or reducing eligibility or services, the decision may be appealed to DMAS. A DMAS hearing officer conducts a fair and impartial hearing and issues a decision. That decision may be appealed to a circuit court or, at the option of the appellant, to the Medical Assistance Appeal Panel. If MAAP review is sought, the MAAP decision can also be appealed to a circuit court.

On January 28, 1994, an order was entered by Judge James H. Michael, Jr., in the U.S. District Court for the Western District of Virginia in the case of *Shifflet v. Kozlowski* (Civil Action No. 92-00072). Judge Michael ordered DMAS to comply with federal law by issuing final agency decisions to appellants within 90 days of the appeals. The court concluded that both hearing officer decisions and MAAP decisions must comply with the 90-

day rule. The department has concluded that it is impossible, with present staff, to complete both levels of appeals within 90 days.

Currently, the Virginia Medical Assistance Program operates with two levels of appeal: the hearing officer level and the Medical Assistance Appeal Panel. The MAAP is not required by state or federal law. A recent federal court ruled that the entire administrative appeals process for applicants for or recipients of medical assistance must be completed within 90 days. The 90-day deadline cannot be met as long as both appeal levels exist.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public comments may be submitted through June 2, 1995, to Diana Salvatore, Director, Appeals Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria Simmons or Roberta Jonas, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

## BOARD OF MEDICINE

**May 4, 1995 - 9 a.m. -- Open Meeting**  
Sheraton Inn, I-95 and Route 3, Fredericksburg, Virginia. ☎

† **May 10, 1995 - 10:30 a.m. -- Open Meeting**  
Roanoke Airport Marriott, 2801 Hershberger Road, N.W., Roanoke, Virginia. ☎

**May 11, 1995 - 9:30 a.m. -- Open Meeting**  
† **May 17, 1995 - 9 a.m. -- Open Meeting**  
† **May 18, 1995 - 9 a.m. -- Open Meeting**  
† **May 19, 1995 - 9 a.m. -- Open Meeting**  
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☎

The Informal Conference Committee composed of three members of the board will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

**Contact:** Karen W. Perrine, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

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† **June 7, 1995 - 1 p.m. -- Public Hearing**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

† **July 1, 1995 -- Public comments may be submitted until this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **VR 465-02-1. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology and Acupuncture.** The proposed amendments clarify prohibited sexual contact with patients; remove burdensome, outdated language on acupuncture; and eliminate the requirements for a state examination for chiropractic licensure.

Statutory Authority: §§ 54.1-2400 and 54.1-2900 et seq. of the Code of Virginia.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9925.

## VIRGINIA MILITARY INSTITUTE

### Board of Visitors

**May 18, 1995 - 8:30 a.m. -- Open Meeting**  
Virginia Military Institute, Smith Hall, Lexington, Virginia. ☎

A finals meeting and regular meeting of the Board of Visitors to (i) hear committee reports; (ii) approve awards, distinctions, and diplomas; (iii) discuss personnel changes; and (iv) elect president pro tem. This is not a meeting for public comment.

**Contact:** Colonel Edwin L. Dooley, Jr., Secretary to the Board, Superintendent's Office, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206.

## DEPARTMENT OF MINES, MINERALS AND ENERGY

**June 6, 1995 - 10 a.m. -- Public Hearing**  
Department of Mines, Minerals and Energy, Buchanan-Smith Building, U.S. Route 23, Room 219, Big Stone Gap, Virginia.

**June 16, 1995 -- Public comments may be submitted through this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to amend regulations entitled: **VR 480-03-19. Coal Surface Mining Reclamation Regulations.** The proposed amendment makes permanent the October 19, 1994, emergency regulation amendment allowing continued use of scalp rock in highwall backfills on surface coal mines.

Statutory Authority: §§ 45.1-161.3 and 45.1-230 of the Code of Virginia.

Public comments may be submitted through June 16, 1995, to Danny Brown, Director, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, Virginia 24219.

**Contact:** Les Vincent, Reclamation Chief Engineer, Department of Mines, Minerals and Energy, Division of Mined

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## Calendar of Events

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Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8100.

### BOARD OF NURSING

**May 19, 1995** -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Nursing intends to amend regulations entitled: **VR 495-01-1. Regulations of the Board of Nursing.** The purpose of the proposed amendments is to facilitate the process of approval of nursing and nurse aide education programs in accordance with Administrative Process Act requirements and to comply with statutory change for practice pending licensure resulting from changes in the administration of examinations.

Statutory Authority: §§ 54.1-2400 and 54.1-3000 et seq. of the Code of Virginia.

**Contact:** Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

† **May 22, 1995 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Two special conference committees will conduct informal conferences in the morning. A panel of the board will conduct formal hearings in the afternoon.

**Contact:** Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

† **May 23, 1995 - 9 a.m.** -- Open Meeting

† **May 24, 1995 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting of the board to consider matters relating to nursing education programs, discipline of licensees, licensure by examination and other matters under the jurisdiction of the board. Public comment will be received during an open forum beginning at 11 a.m., Tuesday May 23, 1995.

On May 23, 1995, at 1 p.m., pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the Board of Nursing Regulations, VR 495-01-01. These regulations will be reviewed to ensure that (i) they are essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) they are mandated or authorized by law; (iii) they offer the least burdensome alternative and most reasonable solution; and (iv) they are clearly written and easily

understandable. Written comment may be sent to the board before June 15, 1995.

**Contact:** Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

† **May 25, 1995 - 8:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A panel of the Board of Nursing will conduct formal hearings. If the agenda for the panel is not filled with formal hearings, two special conference committees will conduct informal conferences as time permits. Public comment will not be received.

**Contact:** Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

### BOARDS OF NURSING AND MEDICINE

**May 1, 1995 - 1 p.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

**June 2, 1995** -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Nursing and the Board of Medicine intend to amend regulations entitled: **VR 495-02-1 and VR 465-07-1. Regulations Governing the Licensure of Nurse Practitioners.** The Boards of Nursing and Medicine propose amendments to these regulations as the result of a biennial review. The changes proposed will add a definition of collaboration, delete a restrictive definition of supervision and clarify the categories of licensed nurse practitioners. Clarification of compliance with the Administrative Process Act in administrative proceeding is also included.

Statutory Authority: §§ 54.1-2400 and 54.1-2957 of the Code of Virginia.

**Contact:** Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

**May 1, 1995 - 1 p.m.** -- Public Hearing  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A public hearing to receive comments on proposed amendments to VR 495-02-1 and VR 465-07-01, Regulations Governing the Licensure of Nurse Practitioners. Other matters within the jurisdiction of the committee may be considered as time permits.

**Contact:** Corinne F. Dorsey, R.N., Executive Director, Board of Nursing and Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

### BOARD OF OPTOMETRY

† **May 17, 1995 - 8 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☎

Informal conference meetings. Public comment will be received at the beginning of the meeting.

**Contact:** Carol Stamey, Administrative Assistant, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9910 or (804) 662-7197/TDD ☎

† **May 18, 1995 - 8 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☎

A general board meeting. Discussion of Executive Order 15(94) and discussion of public comment on proposed regulations. Public comment will be received at the beginning of the meeting.

**Contact:** Carol Stamey, Administrative Assistant, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9910 or (804) 662-7197/TDD ☎

### VIRGINIA OUTDOORS FOUNDATION

**May 3, 1995 - 10 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

A general business meeting. Agenda is available upon request. Public comment will be received.

**Contact:** Virginia E. McConnell, Executive Director, Virginia Outdoors Foundation, 203 Governor St., Richmond, VA 23219, telephone (804) 225-2147.

### BOARD OF PHARMACY

**May 12, 1995 - 10 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

From 10 a.m. to noon, there will be a public hearing to receive comments on VR 530-01-1, Regulations of the Virginia Board of Pharmacy, as part of the comprehensive review of this set of regulations in accordance with Executive Order 15(94); at noon there will be a working meeting of the Regulation Committee.

**Contact:** Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

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**May 22, 1995** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled: **VR 530-01-1. Regulations of the Board of Pharmacy.** The Board of Pharmacy is proposing amendments to its regulations necessary to implement legislation enacted by the 1994 General Assembly allowing graduates of foreign schools of pharmacy to apply for licensure as a pharmacist.

Statutory Authority: §§ 54.1-2400, 54.1-3307, and 54.1-3312 of the Code of Virginia.

**Contact:** Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

### DEPARTMENT OF STATE POLICE

**June 16, 1995** -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of State Police intends to adopt regulations entitled: **VR 545-01-18. Regulations Governing the Operation and Maintenance of the Sex Offender Registry.** These regulations establish the procedures and forms to be used in the registration of persons required by law to register with the Sex Offender Registry and the lawful dissemination of the Sex Offender Registry.

Statutory Authority: § 19.2-390.1 of the Code of Virginia.

**Contact:** Lieutenant John G. Weakley, Assistant Records Management Officer, Department of State Police, Records Management Division, P.O. Box 27472, Richmond, VA 23261-7472, telephone (804) 674-2022.

### BOARD OF PROFESSIONAL COUNSELORS

† **May 18, 1995 - 10:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, Conference Rooms 1, 3, and 4, Richmond, Virginia. ☎

Informal conferences to be held in accordance to § 9-6.14:11 of the Code of Virginia.

**Contact:** Evelyn B. Brown, Executive Director, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7328.

**May 19, 1995 - 8:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, Conference Rooms 1, 3, and 4, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

An informal conference regarding credentials will begin at 8:30 a.m. in Conference Room 4. There will be a public hearing to receive comments on the Regulations



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## Calendar of Events

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Governing the Certification of Rehabilitation Providers - Standards and Renewal Fees at 8:30 a.m. in Conference Room 3. The board will hold a regular meeting to conduct general board business to (i) consider education and experience requirements for the certification of rehabilitation providers; (ii) act on committee reports and correspondence; and (iii) act on any other matters under the jurisdiction of the board, beginning at 10 a.m. in Conference Room 1. There will be a half-hour general public comment period from 10:15 a.m. to 10:45 a.m.

**Contact:** Evelyn B. Brown, Executive Director, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9912.

### BOARD OF PSYCHOLOGY

**May 16, 1995 - 10 a.m. -- Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☎

The board will meet to conduct general board business, and to consider regulations for the certification of sex offender treatment providers. Public comment will be received between 10:15 and 10:30 a.m.

**Contact:** Evelyn B. Brown, Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

### REAL ESTATE APPRAISER BOARD

**May 23, 1995 - 10 a.m. -- Open Meeting**  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodations at least two weeks in advance.

**Contact:** Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

### RECYCLING MARKETS DEVELOPMENT COUNCIL

**† May 11, 1995 - 10 a.m. -- Open Meeting**  
State Capitol, Capitol Square, House Room 1, Richmond, Virginia.

The council will continue work on developing and monitoring a plan to strengthen Virginia's recycling infrastructure and markets; setting forth strategies primarily designed to improve the supply, quantity, and quality of recyclables; and providing strategies for

increasing the demand for recycled products and expanding the capacity of collectors, processors and manufacturers to handle and use specified recyclable materials. Subcommittee meetings, if appropriate, will be held prior to the general council meeting. Subcommittees will meet from 10 to 11:30 a.m.; council will meet from 11:30 a.m. to 12:30 p.m., followed by a lunch break.

**Contact:** Paddy Katzen, Assistant to Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4488.

### Plastics Subcommittee

**† May 12, 1995 - 10 a.m. -- Open Meeting**  
Klockner Pentaplast, Klockner Road, Gordonsville, Virginia.

A meeting to discuss barriers to the development of markets for recycled plastics and alternatives.

**Contact:** Paddy Katzen, Assistant to Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4488.

### RICHMOND HOSPITAL AUTHORITY

#### Board of Commissioners

**† May 25, 1995 - 4 p.m. -- Open Meeting**  
Richmond Nursing Home, 1900 Cool Lane, 2nd Floor, Classroom, Richmond, Virginia. ☎

A monthly board meeting to discuss nursing home operations and related matters.

**Contact:** Marilyn H. West, Chairman, Richmond Hospital Authority, P.O. Box 548, Richmond, VA 23204-0548, telephone (804) 782-1938.

### SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

**May 24, 1995 - 10 a.m. -- Open Meeting**  
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ☎

A meeting to hear all administrative appeals of denials of onsite sewage disposal systems permits pursuant to §§ 32.1-166.1 et seq. and 9-6.14:12 of the Code of Virginia, and VR 355-34-02.

**Contact:** Constance G. Talbert, Secretary to the Board, Sewage Handling and Disposal Appeals Review Board, 1500 E. Main St., Suite 117, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1750.

### VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

**† May 23, 1995 - 10 a.m. -- Open Meeting**

901 East Byrd Street, 19th Floor, Richmond, Virginia. ☎

A general meeting of the Board of Directors.

**Contact:** Cathleen M. Surface, Executive Director, Virginia Small Business Financing Authority, 901 E. Byrd St., P.O. Box 798, Richmond, VA 23206-0798 or FAX (804) 225-3384.

### BOARD OF SOCIAL WORK

† **May 11, 1995 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☎

An informal conference to be conducted in accordance with § 9-6.14:11 of the Code of Virginia.

**Contact:** Evelyn B. Brown, Executive Director, Board of Social Work, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9967.

† **May 12, 1995 - 8:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, Conference Room 3, Richmond, Virginia. ☎

A regular meeting of the board to consider committee reports, act on correspondence and any other matters under the jurisdiction of the board.

**Contact:** Evelyn B. Brown, Executive Director, or Arnice Covington, Administrative Assistant, Board of Social Work, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9914.

### VIRGINIA SOIL AND WATER CONSERVATION BOARD

† **May 18, 1995 - 9:30 a.m.** -- Open Meeting

Augusta County Government Center, South Board Room, Verona, Virginia.

A regular bi-monthly business meeting in conjunction with a tour sponsored by the Headwaters Soil and Water Conservation District.

**Contact:** Linda J. Cox, Administrative Assistant, Virginia Soil and Water Conservation Board, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2152.

### STATEWIDE HUMAN SERVICES INFORMATION AND REFERRAL ADVISORY COUNCIL

† **May 10, 1995 - 10 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Richmond, Virginia. ☎ (Interpreter for the deaf provided)

The council will receive public comment concerning the policies, directions and recommendations for services provided by the Statewide Human Services Information and Referral System. The council advises the Department of Social Services in the administration of free and confidential information provided to citizens of the

Commonwealth. The department contracts with five regional centers to provide the free and confidential information on the vast range of private and public agencies and programs that provide services to Virginians throughout the Commonwealth.

**Contact:** Zandra Thompson, Human Services Program Specialist, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1298, FAX (804) 692-2209 or toll-free 1-800-552-7096/TDD ☎

### COMMONWEALTH TRANSPORTATION BOARD

† **May 17, 1995 - 2 p.m.** -- Open Meeting  
Harry L. Coomes Recreation Center, 300 Stanley Street, Abingdon, Virginia. ☎ (Interpreter for the deaf provided upon request)

A work session of the board and the Department of Transportation staff.

**Contact:** Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

† **May 18, 1995 - 10 a.m.** -- Open Meeting  
Harry L. Coomes Recreation Center, 300 Stanley Street, Abingdon, Virginia. ☎ (Interpreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact VDOT Public Affairs at (804) 786-2715 for schedule.

**Contact:** Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

### VIRGINIA TRANSPORTATION SAFETY BOARD

† **May 11, 1995 - 9 a.m.** -- Open Meeting  
Department of Motor Vehicles Headquarters, 2300 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A quarterly meeting of the board to discuss matters regarding highway safety.

**Contact:** Angelisa Jennings, Management Analyst, Department of Motor Vehicles, 2300 W. Broad St., Room 405, Richmond, VA 23269, telephone (804) 367-2026 or FAX (804) 367-6031.

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## Calendar of Events

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### TREASURY BOARD

**May 17, 1995 - 9 a.m.** -- Open Meeting

**June 21, 1995 - 9 a.m.** -- Open Meeting

James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Room, Richmond, Virginia.

A regular meeting.

**Contact:** Gloria J. Hatchel, Administrative Assistant, Treasury Board, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

### BOARD ON VETERANS' AFFAIRS

**† May 10, 1995 - 1 p.m.** -- Open Meeting


State Capitol, Capitol Square, House Room 2, Richmond, Virginia.

A meeting to discuss the state veterans' cemetery and other items of interest to Virginia's veterans. The public is invited to speak on items of interest to the veteran community; however, presentations should be limited to 10 minutes. Speakers are requested to register with the aide present at the meeting and should leave a copy of their remarks for the record. Service organizations should designate one person to speak on behalf of the entire organization in order to give ample time to accommodate all who may wish to speak.

**Contact:** Beth Tonn, Secretary for the Board, Department of Veterans' Affairs, 270 Franklin Rd., S.W., Room 1012, Roanoke, VA 24011-2215, telephone (703) 857-7104.

### VIRGINIA RACING COMMISSION

**† May 17, 1995 - 9:30 a.m.** -- Open Meeting

Tyler Building, 1300 East Main Street, Richmond, Virginia. 


The commission will conduct a regular monthly meeting including a review of its regulations and a report from Colonial Downs.

**Contact:** William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

### DEPARTMENT FOR THE VISUALLY HANDICAPPED


**May 1, 1995 - 2 p.m.** -- Public Hearing

**May 1, 1995 - 6:30 p.m.** -- Public Hearing


Virginia Rehabilitation Center for the Blind, 401 Azalea Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request. Deadline for interpreter is April 17 at 5 p.m.)

**May 4, 1995 - Noon** -- Public Hearing

**May 4, 1995 - 6:30 p.m.** -- Public Hearing

Howard Johnson Motel, 700 Monticello Avenue, Norfolk, Virginia.  (Interpreter for the deaf provided upon request. Deadline for interpreter is April 20 at 5 p.m.)

**May 10, 1995 - 6:30 p.m.** -- Public Hearing


Central Arlington County Library, 1015 North Quincy Street, Arlington, Virginia.  (Interpreter for the deaf provided upon request. Deadline for interpreter is April 26 at 5 p.m.)

A meeting to invite comments from the public regarding vocational rehabilitation services for persons with visual disabilities. All comments will be considered in developing the state plan for this program.


**Contact:** James G. Taylor, Program Director, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3111.

### Vocational Rehabilitation Advisory Council

**May 20, 1995 - 10 a.m.** -- Open Meeting

Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The council meets quarterly to advise the Department for the Visually Handicapped on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth. Request deadline for interpreter services is May 4, 1995.

**Contact:** James G. Taylor, Vocational Rehabilitation Specialist, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155 or (804) 371-3140/TDD 

### VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

**May 3, 1995 - Noon** -- Open Meeting

Newport News School Board Office, 12465 Warwick Boulevard, Newport News, Virginia.

Committee meetings will be held from noon to 4 p.m.; a public meeting will be held at 7 p.m.

**Contact:** Jerry M. Hicks, Executive Director, Virginia Council on Vocational Education, 7420-A Whitepine Rd., Richmond, VA 23237, telephone (804) 275-6218.

**May 4, 1995 - 8:30 a.m.** -- Open Meeting


Newport News School Board Office, 12465 Warwick Boulevard, Newport News, Virginia.

A council business session.

**Contact:** Jerry M. Hicks, Executive Director, Virginia Council on Vocational Education, 7420-A Whitepine Rd., Richmond, VA 23237, telephone (804) 275-6218.

### STATE WATER CONTROL BOARD

**† May 16, 1995 - 9 a.m.** -- Open Meeting

Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Board Room, Glen Allen, Virginia. 

The board will hold a formal evidentiary hearing to consider a petition for a formal hearing filed by Texaco Lubricants Company regarding the issuance of Virginia

Pollutant Discharge Elimination System (VPDES) No. VA0004821. This hearing is being held pursuant to §§ 9-6, 14:12 and 62.1-44.25 of the Code of Virginia, as well as the board's Procedural Rule No. 1 and VR 680-14-01 (Permit Regulation).

**Contact:** Cindy Berndt, Policy and Planning Supervisor, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4378, FAX (804) 762-4346 or (804) 762-4021/TDD ☎

† **June 28, 1995 - 10 a.m.** -- Open Meeting  
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road., Board Room, Glen Allen, Virginia. ☎

A regular quarterly meeting.

**Contact:** Cindy Berndt, Policy and Planning Supervisor, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4378, FAX (804) 762-4346 or (804) 762-4021/TDD ☎

### VIRGINIA WORKERS' COMPENSATION COMMISSION

† **June 2, 1995 - 10 a.m.** -- Public Hearing  
Virginia Workers' Compensation Commission, 1000 DMV Drive, Richmond, Virginia. ☎

A public hearing to discuss the definition of "community" as it is construed in § 65.2-605 of the Code of Virginia and proposed Rule 14 of the Virginia Workers' Compensation Commission. Speakers will be limited to 10 minutes each and should preregister. Copies of proposals under consideration may be obtained from Kim Lewis after May 1, 1995.

**Contact:** Kim S. Lewis, Administrative Staff Assistant, Virginia Workers' Compensation Commission, 1000 DMV Dr., Richmond, VA 23220, telephone (804) 367-8661 or FAX (804) 367-9740.

### BOARD OF YOUTH AND FAMILY SERVICES

† **May 10, 1995 - 8:30 a.m.** -- Open Meeting  
700 Centre Building, 7th and Franklin Streets, 4th Floor, Richmond, Virginia. ☎

Committee meetings will be held from 8:30 to 10 a.m., and a general meeting from 10 a.m. to 5 p.m. to review programs recommended from certification or probation, to consider adoption of draft policies, and other matters that may come before the board.

**Contact:** Donald R. Carignan, Policy Coordinator, Department of Youth and Family Services, P.O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0692.

## LEGISLATIVE

### VIRGINIA CODE COMMISSION

#### Title 15.1 Recodification Task

**May 18, 1995 - 10 a.m.** -- Open Meeting

**May 19, 1995 - 10 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, 6th Floor, Speakers Conference Room, Richmond, Virginia.

A meeting to continue drafting revision of Title 15.1 to present to the Virginia Code Commission. SJR 2.

**Contact:** Michelle Browning, Senior Operations Staff Assistant, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

### JUVENILE JUSTICE SYSTEM TASK FORCE

† **June 27, 1995 - 10 a.m.** -- Open Meeting  
Tidewater area; location to be announced.

A regular meeting. HJR 604.

**Contact:** Joyce Huey, General Assembly Building, 910 Capitol Street, Richmond, VA 23219, telephone (804) 371-2481.

### COMMISSION ON POPULATION GROWTH AND DEVELOPMENT

**June 2, 1995 - 2 p.m.** -- Open Meeting  
Stratford Hall, Westmoreland County, Virginia.

A final meeting to review the 1995 session and the final report of the commission.

**Contact:** Katherine L. Imhoff, Executive Director, General Assembly Building, 910 Capitol St., Room 519B, Richmond, VA 23219, telephone (804) 371-4949.

## CHRONOLOGICAL LIST

### OPEN MEETINGS

**May 1**

Alcoholic Beverage Control Board  
Conservation and Recreation, Department of  
- Rivanna Scenic River Advisory Board  
Funeral Directors and Embalmers, Board of  
- Legislative Committee  
Library Board

## Calendar of Events

### May 2

Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for Conservation and Recreation, Board of Funeral Directors and Embalmers, Board of Hopewell Industrial Safety Council

### May 3

† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for  
- Board for Architects  
Chesapeake Bay Local Assistance Board  
- Northern Area Review Committee  
Contractors, Board for  
† Game and Inland Fisheries, Board of  
Outdoors Foundation, Virginia  
Vocational Education, Virginia Council on

### May 4

Audiology and Speech-Language Pathology, Board of Branch Pilots, Board for Chesapeake Bay Local Assistance Board  
- Central Area Review Committee  
- Southern Area Review Committee  
Contractors, Board for  
Dentistry, Board of  
† Forestry, Board of  
Game and Inland Fisheries, Board of  
Medicine, Board of  
Vocational Education, Virginia Council on

### May 5

Dentistry, Board of  
Game and Inland Fisheries, Board of  
† Health Profession, Department of  
- Task Force on Unified Regulation of Psychologists

### May 6

Dentistry, Board of

### May 8

Agriculture and Consumer Services, Department of  
- Virginia Seed Potato Board  
† ASAP Policy Board - Valley  
Hearing Aid Specialists, Board for  
† Higher Education for Virginia, State Council of

### May 9

† Agriculture and Consumer Services, Department of  
- Virginia Irish Potato Board  
Higher Education for Virginia, State Council on  
† Library of Virginia  
- State Networking Users Advisory Board

### May 10

† Deaf and Hard-of-Hearing, Department for the  
- Advisory Board  
Environmental Quality, Department of  
- Cost-Benefit Analysis Work Group  
Higher Education in Virginia, Commission on the Future of  
† Medicine, Board of  
† Statewide Human Services Information and Referral Advisory Council  
† Veterans' Affairs, Virginia Board on  
† Youth and Family Services, Board of

### May 11

† Environmental Quality, Department of  
† Health, Department of  
- Biosolids Use Regulations Advisory Committee  
† Juvenile Justice System Task Force  
Medicine, Board of  
† Recycling Markets Development Council  
† Social Work, Board of  
† Transportation Safety Board, Virginia

### May 12

† Agriculture and Consumer Services, Department of  
- Virginia Aquaculture Advisory Board  
Library of Virginia  
- VLIN Task Force/Automation and Networking Committee  
† Recycling Markets Development Council  
- Plastics Subcommittee  
† Social Work, Board of

### May 15

† Agriculture and Consumer Services, Department of  
- Virginia Irish Potato Board  
Alcoholic Beverage Control Board

### May 16

Agriculture and Consumer Services, Department of  
- Virginia Horse Industry Board  
Certified Seed Board, State  
† Corrections, Board of  
- Correctional Services Committee  
† Housing Development Authority, Virginia  
Psychology, Board of  
† Water Control Board, State

### May 17

† Community Colleges, State Board for  
† Corrections, Board of  
- Administration Committee  
George Mason University  
- Board of Visitors  
Local Debt, State Council on  
† Medicine, Board of  
† Optometry, Board of  
† Transportation Board, Commonwealth  
Treasury Board  
† Virginia Racing Commission

### May 18

Asbestos Licensing and Lead Certification, Board for  
† Community Colleges, State Board for  
† Health, Department of  
- Commissioner's Waterworks Advisory Committee  
† Medicine, Board of  
Military Institute, Virginia  
- Board of Visitors  
† Optometry, Board of  
† Professional Counselors, Board of  
† Soil and Water Conservation Board, Virginia  
† Transportation Board, Commonwealth  
Title 15.1 Recodification Task Force

### May 19

Family and Children's Trust Fund  
† Medicine, Board of

## Calendar of Events

Professional Counselors, Board of  
Title 15.1 Recodification Task Force

### May 20

Visually Handicapped, Department for the  
Vocational Rehabilitation Advisory Council

### May 22

† Nursing, Board of

### May 23

† Health Services Cost Review Council, Virginia  
† Nursing, Board of  
Real Estate Appraiser Board  
† Small Business Financing Authority, Virginia

### May 24

† Nursing, Board of  
Sewage Handling and Disposal Appeals Review Board

### May 25

Compensation Board  
† Education, Board of  
† Nursing, Board of  
† Richmond Hospital Authority  
- Board of Commissioners

### May 26

Architects, Professional Engineers, Land Surveyors and  
Landscape Architects, Board for  
- Board for Architects

### May 31

Alcoholic Beverage Control Board

### June 1

Chesapeake Bay Local Assistance Board  
- Central Area Review Committee  
- Southern Area Review Committee  
Library of Virginia  
- VLIN Task Force/Automation and Networking  
Committee

### June 2

Population Growth and Development, Commission on

### June 5

Barbers, Board for  
Library Board

### June 6

† Agriculture and Consumer Services, Department of  
- Virginia Horse Industry Board  
† Hopewell Industrial Safety Council  
Library Board

### June 7

Chesapeake Bay Local Assistance Board  
- Northern Area Review Committee

### June 12

Alcoholic Beverage Control Board  
Cosmetology, Board for

### June 13

Higher Education for Virginia, State Council on

### June 14

Environmental Quality, Department of  
Higher Education in Virginia, Commission on the Future  
of

### June 21

Local Debt, State Council on  
Treasury Board

### June 22

† Education, Board of

### June 26

Alcoholic Beverage Control Board

### June 28

Contractors, Board for  
† Water Control Board, State

### July 11

† Agriculture and Consumer Services, Department of  
- Virginia Horse Industry Board  
Higher Education for Virginia, State Council on  
† Hopewell Industrial Safety Council

### July 19

Environmental Quality, Department of

## PUBLIC HEARINGS

### May 1

Nursing and Medicine, Committee of the Joint Boards of  
Visually Handicapped, Department for the

### May 3

Criminal Justice Services, Department of

### May 4

Visually Handicapped, Department for the

### May 10

Visually Handicapped, Department for the

### May 12

Pharmacy, Board of

### May 18

Asbestos Licensing and Lead Certification, Board for

### June 2

† Workers' Compensation Commission, Virginia

### June 6

Mines, Minerals and Energy, Department of

### June 7

† Medicine, Board of

